

Extra Ordinary Part - VI / 2010

Extra No.	Date	Department
Extra No.1	10-05-2010	Legislative & Parliamentary Affairs Department
Extra No.2	10-05-2010	Legislative & Parliamentary Affairs Department
Extra No.3	10-05-2010	Legislative & Parliamentary Affairs Department
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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th May, 2010.

No. RPB/1-10/Ord-01-10/E:- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 23rd January, 2010 is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 23rd January, 2010, Magha 3, 1931 (Saka)

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS
(AMENDMENT AND VALIDATION) ORDINANCE, 2010.

No. 1 of 2010

Promulgated by the President in the Sixtieth Year of the Republic of India.

An Ordinance further to amend the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and to make provision for validation of certain actions taken by the Central Government for public purposes under the said Act.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action.

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010. Short title and commencement.

(2) It shall come into force at once.

Amendment of section 2. 2. On and from the 16th day of June, 1992, in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (hereinafter referred to as the principal Act), in section 2.- 24 of 1958.

(a) after clause (h), the following clause shall be inserted and shall be deemed to have been inserted, namely :-

“(ha) “prohibited area” means any area declared by the Central Government to be a prohibited area under section 20A;”

(b) after clause (j), the following clause shall be inserted and shall be deemed to have been inserted, namely :-

“(k) “regulated area” means any area declared by the Central Government under section 20B.”

Insertion of new heading and new sections 20A, 20B, 20C and 20D

3. On and from the 16th day of June, 1992, after section 20 of the principal Act, the following shall be inserted and shall be deemed to have been inserted, namely:-

PROHIBITED AREA AND REGULATED AREA NEAR OR ADJOINING PROTECTED MONUMENTS

Declaration of prohibited areas and carrying out of public work in prohibited areas.

20A. (1) The Central Government may, on the recommendation of an Expert Advisory Committee constituted under section 20D, by notification in the Official Gazette, declare, from time to time, in accordance with the procedure as may be prescribed, any area near any protected monument or its adjoining area to be a prohibited area in respect of such protected monument.

(2) No person, other than an archaeological officer, shall carry out any construction in any prohibited area referred to in sub-section (1).

(3) In a case where the Central Government is satisfied that-

(a) it is necessary or expedient for carrying out such public work or any project essential to the public as may be notified in the Official Gazette; and

(b) such work, in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or access to, the monument or its immediate surrounding

it may, notwithstanding any thing contained in sub-section (2), in exceptional cases, having regard to the public interest, by order and for reasons to be recorded in writing, permit such public work or project essential to the public, to be carried out.

(4) The Director-General may, on the recommendation of an Expert Advisory Committee constituted under section 20D, notwithstanding anything contained in sub-section (2), in exceptional cases, permit a person to carry out any construction activity

in a prohibited area referred to in sub-section (1) in accordance with the terms and conditions of a special permission granted by him in accordance with the rules as may be made by the Central Government:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010, as a prohibited area in respect of such protected monument, shall be deemed to be the prohibited area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted for construction of any public work or project essential to the public or special permission granted for construction, notwithstanding that such public work or project essential to the public or special permission, had not been notified, in respect of such prohibited area without having obtained recommendations of the Expert Advisory Committee or any other Committee, or such notification had not been laid before Parliament, shall be and shall be deemed to have been validly granted in accordance with the provisions of this Act.

2013. (1) The Central Government may, on the recommendation of an Expert Advisory Committee constituted under section 20D, by notification in the Official Gazette, declare from time to time, in accordance with the procedure as may be prescribed, any area (whether near any prohibited area in respect of protected monument or not, or its adjoining area) to be a regulated area in respect of such protected monument.

Declaration of regulated area in respect of every protected monument and regulation of construction activities in such area.

(2) The Director-General may, on the recommendation of an Expert Advisory Committee constituted under section 20D, permit a person to carry out any construction activity in a regulated area referred to in sub-section (1) in accordance with the terms and conditions of a licence granted by him in accordance with the rules as may be made by the Central Government:

Provided that any area near any protected monument or its adjoining area declared, during the period beginning on or after the 16th day of June, 1992 but ending before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010, as a regulated area in respect of such protected monument, shall be deemed to be the regulated area declared in respect of that protected monument in accordance with the provisions of this Act and any permission or licence granted for construction in such regulated area shall, notwithstanding anything contained in sub-section (1) and this sub-section or that such notification had not been laid before Parliament, be deemed to have been validly granted in accordance with the provisions of this Act.

(3) Every notification issued under section 20A and this section shall be laid before each House of Parliament.

Repair,
renovation,
re-
construction
or
construction
in prohibited
or regulated
area.

20C. (1) If any person,-

(a) owns any building or construction, which existed in a prohibited area before the 16th day of June, 1992, or, had been constructed with the approval of the Director-General and he desires to carry out any repair or renovation or re-construction of such building or construction; or

(b) owns or possesses any building or construction or land in any regulated area, and he desires to carry out any repair or renovation or re-construction or construction of such building or construction on such land, as the case may be.

he may make an application to the Director-General for such repair or renovation or re-construction or construction, as the case may be.

(2) The Director-General, on receipt of any application under sub-section (1) may, on the recommendation of an Expert Advisory Committee constituted under section 20D, by order and for reasons to be recorded in writing, permit, subject to such terms and conditions as may be specified in the permission: the carrying out of the repair or renovation work or re-construction of any building or construction referred to in that sub-section, without causing any damage to the protected monument.

(3) Every order for grant of permission under sub-section (2) shall be made within three months from the date of receipt of the application.

(4) In case the Director-General refuses to grant permission under sub-section (2), he shall, by order in writing, intimate such refusal within three months from the date of receipt of the application.

(5) If the Director-General, after grant of the permission under sub-section (2) and during the carrying out of the repair or renovation work or re-construction of building or construction referred to in that sub-section, is of the opinion (on the basis of material in his possession or otherwise) that such repair or renovation work or re-construction of building or construction is likely to have an adverse impact on the preservation, safety, security or access to the monument considerably, he may withdraw the permission granted under sub-section (2).

(6) Every order and every permission of the Director-General under this Act shall be exhibited in the website of the Archaeological Survey of India.

Expert
Advisory
Committee.

20D. (1) The Central Government may, by notification in the Official Gazette, constitute one or more Expert Advisory Committees for the purposes of sections 20A, 20B and 20C, for making recommendations.

Provided that until such time an Expert Advisory Committee is constituted under this sub-section, the Expert Committee constituted by the Director-General before the commencement of the Ancient

Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010 and functioning as such before such commencement, shall be deemed to be an Expert Advisory Committee under sub-section (1):

Provided further that the Expert Committee constituted by the Director-General before the commencement of the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010 and functioning as such before such commencement, shall cease to be the Expert Advisory Committee immediately after constitution of an Expert Advisory Committee under sub-section (1).

(2) Every reference for seeking recommendations of the Expert Advisory Committee by or under this Act shall be made by the Central Government or the Director-General, as the case may be.

(3) The Expert Advisory Committee shall, within two months of the receipt of a reference, forward its recommendations to the Central Government or the Director-General, as the case may be.

(4) An Expert Advisory Committee shall consist of the Director-General or his nominee as its Chairperson and such number of other members not exceeding six persons having proven experience and expertise in the field of archaeology, country and town planning, architecture, heritage, landscape architecture, conservation- architecture, urban planning, civil engineering, law or culture.

(5) The Central Government, or the Director-General, as the case may be, shall exhibit, in their website, all the recommendations of the Expert Advisory Committee.

(6) The Expert Advisory Committee shall regulate its own procedure for the purposes of holding its meetings (including quorum of such meetings) and making recommendations under this Act.

(7) The Expert Advisory Committee shall mention in its recommendation as to whether any construction in any prohibited area or regulated area is likely to have any substantial adverse impact on the preservation, safety, security of, or, access to, the monument or its immediate surrounding.

(8) The members of the Expert Advisory Committee shall be entitled to such fees as may be prescribed and such fee shall be payable by the Central Government or Director-General who makes a reference for seeking its recommendations.

4. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority:-

(a) any thing done or purported to be done or any action taken or purported to be taken by the Central Government immediately before the commencement of this Ordinance in pursuance of the notification of the Government of India in the Department of Culture (Archaeological Survey of India) number S.O.1764 dated the 16th June, 1992 issued under rule 34 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, shall be deemed to be and deemed to have always been done or

Validation of
action taken,
etc., under
notification
No.S.O.1764
dated 16th June,
1992.

taken validly and in accordance with law at all material times and no action taken or thing done (including any order made, agreement entered into, or notification issued for constituting any Expert Advisory Committee or any other Committee) in connection with any permission granted or license issued for any construction activity in a prohibited area or a regulated area in respect of a protected monument shall be deemed to be invalid or ever to have become invalid merely on the ground that the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or the rules, orders or notifications issued thereunder did not contain any provision for constitution of an Expert Advisory Committee under sub-section (1) of section 20D or notifications had not been laid before Parliament for grant of such permission or licence, as the case may be:

24 of 1958.

(b) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for any permission or licence granted by the Central Government or the Director-General under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or any rule, order or notification made thereunder, for carrying out any repair, renovation or construction work or for undertaking any public work or public project before the commencement of this Ordinance:

24 of 1958.

(c) no claim or challenge shall be made in, or entertained by any court, tribunal or other authority solely on the ground that the Central Government or the Director-General did not take into consideration any of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Ordinance, 2010, in granting any permission or licence for the purpose of carrying out any mining or repair, renovation or construction work in a prohibited area or a regulated area at any time between the 16th day of June, 1992 and the date of commencement of this Ordinance.

24 of 1958.

Sd/-

PRATIBHA DEVISINGH PATIL,
President

V. K. BHASIN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.



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The Gujarat Government Gazette

EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th May, 2010.

No. RPB/5-2010/Act-33-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE Legislative Department

New Delhi, the 19th August, 2009. Sravana 28, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 19th August, 2009, is hereby published for general information :-

THE FINANCE (No. 2) Act, 2009.

(Act No. 33 of 2009) *An Act* [19th August, 2009]
to give effect to the financial proposals of the Central Government for the financial year 2009-2010.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Finance (No. 2) Act, 2009.
- (2) Save as otherwise provided in this Act, sections 2 to 84 shall be deemed to have come into force on the 1st day of April, 2009.

Short title and commencement.

CHAPTER II

RATES OF INCOME-TAX

2. (1) Subject to the provisions of sub-sections (2) and (3), for the assessment year commencing on the 1st day of April, 2009, income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided therein.

Income-tax.

(2) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds one lakh fifty thousand rupees, then,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(b) the income-tax chargeable shall be calculated as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(iii) the amount of income-tax determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh fifty thousand rupees", the words "one lakh eighty thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part I of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh fifty thousand rupees", the words "two lakh twenty-five thousand rupees" had been substituted:

Provided also that the amount of income-tax so arrived at, shall be increased by a surcharge, for purposes of the Union, calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(3) In cases to which the provisions of Chapter XII or Chapter XII-A or Chapter XII-H or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section (1) or the rates as specified in that Chapter or section, as the case may be:

43 of 1961.

Provided that the amount of income-tax computed in accordance with the provisions of section 111A or section 112 shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph A, B, C, D or E, as the case may be, of Part I of the First Schedule:

Provided further that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB or fringe benefits chargeable to tax under section 115WA of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such income-tax where the total income exceeds ten lakh rupees;

(b) in the case of every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent. of such income-tax;

(c) in the case of every firm and domestic company, at the rate of ten per cent. of such income-tax where the total income exceeds one crore rupees;

(d) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as income-tax and surcharge on such income-tax shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees:

Provided also that in respect of any fringe benefits chargeable to tax under section 115WA of the Income-tax Act, income-tax computed under this sub-section shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of income-tax where the fringe benefits exceed ten lakh rupees;

(b) in the case of every firm, artificial juridical person referred to in sub-clause (v) of clause (a) of section 115W of the Income-tax Act, and domestic company, at the rate of ten per cent. of such income-tax;

(c) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such income-tax.

(4) In cases in which tax has to be charged and paid under section 115-O or sub-section (2) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rates as specified in those sections and shall be increased by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such tax.

(5) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made at the rates specified in Part II of the First Schedule and shall be increased by a surcharge, for purposes of the Union, calculated in cases wherever prescribed, in the manner provided therein.

(6) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194J, 194LA, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

(7) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased by a surcharge, for purposes of the Union, calculated, in cases wherever prescribed, in the manner provided therein.

(8) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge, for purposes of the Union, in the case of every company, other than a domestic company, calculated at the rate of two and one-half per cent. of such tax, where the amount or the aggregate of such amounts collected and subject to the collection exceeds one crore rupees.

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for purposes of the Union, calculated in such cases and in such manner as provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 111A or section 112 of the Income-tax Act shall be increased by a surcharge, for purposes of the Union, as provided in Paragraph E of Part III of the First Schedule pertaining to the case of a company:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBC, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every domestic company, at the rate of ten per cent. of such "advance tax" where the total income exceeds one crore rupees;

(b) in the case of every company, other than a domestic company, at the rate of two and one-half per cent. of such "advance tax" where the total income exceeds one crore rupees:

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds one crore rupees, the total amount payable as "advance tax" on such income and surcharge thereon, shall not exceed the total amount payable as "advance tax" on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(10) In cases to which Paragraph A of Part III of the First Schedule applies, where the assessee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds one lakh sixty thousand rupees, then, in charging income-tax under sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(a) the net agricultural income shall be taken into account, in the manner provided in clause (b) [that is to say, as if the net agricultural income were comprised in the total income after the first one lakh sixty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income-tax or, as the case may be, "advance tax" in respect of the total income; and

(b) such income-tax or, as the case may be, "advance tax" shall be so charged or computed as follows:—

(i) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(ii) the net agricultural income shall be increased by a sum of one lakh sixty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(iii) the amount of income-tax or "advance tax" determined in accordance with sub-clause (i) shall be reduced by the amount of income-tax or, as the case may be, "advance tax" determined in accordance with sub-clause (ii) and the sum so arrived at shall be the income-tax or, as the case may be, "advance tax" in respect of the total income:

Provided that in the case of every woman, resident in India and below the age of sixty-five years at any time during the previous year, referred to in item (II) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "one lakh ninety thousand rupees" had been substituted:

Provided further that in the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year, referred to in item (III) of Paragraph A of Part III of the First Schedule, the provisions of this sub-section shall have effect as if for the words "one lakh sixty thousand rupees", the words "two lakh forty thousand rupees" had been substituted.

(11) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall be further increased by an additional surcharge, for purposes of the Union, to be called the "Education Cess on income-tax", calculated at the rate of two per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance universalised quality basic education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(12) The amount of income-tax as specified in sub-sections (1) to (10) and as increased by the applicable surcharge, for purposes of the Union, calculated in the manner provided therein, shall also be increased by an additional surcharge, for purposes of the Union, to be called the "Secondary and Higher Education Cess on income-tax", calculated at the rate of one per cent. of such income-tax and surcharge so as to fulfil the commitment of the Government to provide and finance secondary and higher education:

Provided that nothing contained in this sub-section shall apply to cases in which tax is to be deducted or collected under the sections of the Income-tax Act mentioned in sub-sections (5), (6), (7) and (8), if the income subjected to deduction of tax at source or collection of tax at source is paid to a domestic company and any other person who is resident in India.

(13) For the purposes of this section and the First Schedule,—

(a) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act, for the assessment year commencing on the 1st day of April, 2009, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(b) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(c) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(d) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment
of section 2.

3. In section 2 of the Income-tax Act,—

(a) in clause (15), after the words "medical relief," the words and brackets "preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest," shall be inserted;

(b) after clause (22AA), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

'(22AAA) "electoral trust" means a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government;'

(c) for clause (23), the following clause shall be substituted with effect from the 1st day of April, 2010, namely:—

'(23) (i) "firm" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

9 of 1932.
6 of 2009.

(ii) "partner" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include,—

9 of 1932.

(a) any person who, being a minor, has been admitted to the benefits of partnership; and

(b) a partner of a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;

6 of 2009.

(iii) "partnership" shall have the meaning assigned to it in the Indian Partnership Act, 1932, and shall include a limited liability partnership as defined in the Limited Liability Partnership Act, 2008;'

9 of 1932.
6 of 2009.

(d) in clause (24),—

(i) in sub-clause (iia), after the word and figures "section 10", the words "or by an electoral trust" shall be inserted with effect from the 1st day of April, 2010;

(ii) after sub-clause (xiv), the following sub-clause shall be inserted with effect from the 1st day of October, 2009, namely:—

"(xv) any sum of money or value of property referred to in clause (vii) of sub-section (2) of section 56;"

(e) after clause (29B), the following clause shall be inserted, namely:—

'(29BA) "manufacture", with its grammatical variations, means a change in a non-living physical object or article or thing,—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new and distinct object or article or thing with a different chemical composition or integral structure;'

(f) in clause (48),—

(i) in sub-clauses (a) and (b), after the words "public sector company", the words "or scheduled bank" shall respectively be inserted;

(ii) after clause (c), the following *Explanation* shall be inserted, namely:—

Explanation.— For the purposes of this clause, the expression "scheduled bank" shall have the meaning assigned to it in clause (ii) of the *Explanation* to sub-clause (c) of clause (viii) of sub-section (1) of section 36.

4. In section 10 of the Income-tax Act,—

(a) in clause (10C), after the second proviso, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

Amendment of section 10.

"Provided also that where any relief has been allowed to an assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under this clause shall be allowed to him in relation to such, or any other, assessment year;"

(b) in clause (23C), in the fourteenth proviso, for the words "made at any time during the financial year immediately preceding the assessment year", the words, figures and letters "made on or before the 30th day of September of the relevant assessment year" shall be substituted;

(c) in clause (23D), in the *Explanation*, in clause (a), after the words, brackets and figures "Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980", the words "and a bank included in the category 'other public sector banks' by the Reserve Bank of India" shall be inserted with effect from the 1st day of April, 2010;

(d) after clause (43), the following clause shall be inserted, namely:—

"(44) any income received by any person for, or on behalf of, the New Pension System Trust established on the 27th day of February, 2008 under the provisions of the Indian Trusts Act, 1882."

40 of 1980.

2 of 1882.

5. In section 10A of the Income-tax Act, in sub-section (1), in the fourth proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted.

Amendment of section 10A.

6. In section 10AA of the Income-tax Act, in sub-section (7), for the words "by the assessee" occurring at the end, the words "by the undertaking" shall be substituted with effect from the 1st day of April, 2010.

Amendment of section 10AA.

7. In section 10B of the Income-tax Act, in sub-section (1), in the third proviso, for the figures, letters and words "1st day of April, 2011", the figures, letters and words "1st day of April, 2012" shall be substituted.

Amendment of section 10B.

8. After section 13A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"13B. Any voluntary contributions received by an electoral trust shall not be included in the total income of the previous year of such electoral trust, if—

Insertion of new section 13B. Special provisions relating to voluntary contributions received by electoral trust.

(a) such electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during the said previous year, ninety-five per cent. of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous year; and

(b) such electoral trust functions in accordance with the rules made by the Central Government."

43 of 1951.

9. In section 17 of the Income-tax Act, in clause (2), with effect from the 1st day of April, 2010,—

Amendment of section 17.

(a) in sub-clause (v), for the words "annuity; and", the word "annuity;" shall be substituted;

(b) for sub-clause (vi), the following sub-clauses shall be substituted, namely:—

(vi) the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rate to the assessee.

Explanation.— For the purposes of this sub-clause,—

(a) "specified security" means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and, where employees' stock option has been granted under any plan or scheme therefor, includes the securities offered under such plan or scheme; 42 of 1956.

(b) "sweat equity shares" means equity shares issued by a company to its employees or directors at a discount or for consideration other than cash for providing know-how or making available rights in the nature of intellectual property rights or value additions, by whatever name called;

(c) the value of any specified security or sweat equity shares shall be the fair market value of the specified security or sweat equity shares, as the case may be, on the date on which the option is exercised by the assessee as reduced by the amount actually paid by, or recovered from, the assessee in respect of such security or shares;

(d) "fair market value" means the value determined in accordance with the method as may be prescribed;

(e) "option" means a right but not an obligation granted to an employee to apply for the specified security or sweat equity shares at a predetermined price;

(vii) the amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees; and

(viii) the value of any other fringe benefit or amenity as may be prescribed.

Amendment
of section 28.

10. In section 28 of the Income-tax Act, after clause (vi), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

"(vii) any sum, whether received or receivable, in cash or kind, on account of any capital asset (other than land or goodwill or financial instrument) being demolished, destroyed, discarded or transferred, if the whole of the expenditure on such capital asset has been allowed as a deduction under section 35AD;"

Amendment of
section 32.

11. In section 32 of the Income-tax Act, in sub-section (1), in *Explanation 3*, for the words "the expressions 'assets' and 'block of assets'", the words "the expression 'assets'" shall be substituted with effect from the 1st day of April, 2010.

Amendment of
section 35.

12. In section 35 of the Income-tax Act, in sub-section (2AB), in clause (1), for the words "the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board", the words "any business of manufacture or production of any article or thing, not being an article or thing specified in the list of the Eleventh Schedule" shall be substituted with effect from the 1st day of April, 2010.

Insertion of
new section
35AD.
Deduction in
respect of
expenditure on
specified
business.

13. After section 35AC of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

35AD. (1) An assessee shall be allowed a deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on by him during the previous year in which such expenditure is incurred by him:

Provided that the expenditure incurred, wholly and exclusively, for the purposes of any specified business, shall be allowed as deduction during the previous year in which he commences operations of his specified business, if—

(a) the expenditure is incurred prior to the commencement of its operations; and

(b) the amount is capitalised in the books of account of the assessee on the date of commencement of its operations.

(2) This section applies to the specified business which fulfils all the following conditions, namely:—

(i) it is not set up by splitting up, or the reconstruction, of a business already in existence;

(ii) it is not set up by the transfer to the specified business of machinery or plant previously used for any purpose;

(iii) where the business is of the nature referred to in sub-clause (iii) of clause (c) of sub-section (8), such business,—

(a) is owned by a company formed and registered in India under the Companies Act, 1956 or by a consortium of such companies or by an authority or a board or a corporation established or constituted under any Central or State Act;

(b) has been approved by the Petroleum and Natural Gas Regulatory Board established under sub-section (1) of section 3 of the Petroleum and Natural Gas Regulatory Board Act, 2006 and notified by the Central Government in the Official Gazette in this behalf;

(c) has made not less than one-third of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person; and

(d) fulfils any other condition as may be prescribed.

(3) The assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VIA under the heading "C.— Deductions in respect of certain incomes".

(4) No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year.

(5) The provisions of this section shall apply to the specified business referred to in sub-section (2) if it commences its operations,—

(a) on or after the 1st day of April, 2007, where the specified business is in the nature of laying and operating a cross-country natural gas pipeline network for distribution, including storage facilities being an integral part of such network; and

(b) on or after the 1st day of April, 2009, in all other cases not falling under clause (a).

(6) The assessee carrying on the business of the nature referred to in clause (a) of sub-section (5) shall be allowed, in addition to deduction under sub-section (1), a further deduction in the previous year relevant to the assessment year beginning on the 1st day of April, 2010, of an amount in respect of expenditure of capital nature incurred during any earlier previous year, if—

(a) the business referred to in clause (a) of sub-section (5) has commenced its operation at any time during the period beginning on or after the 1st day of April, 2007 and ending on the 31st day of March, 2009; and

(b) no deduction for such amount has been allowed or is allowable to the assessee in any earlier previous year.

(7) The provisions contained in sub-section (6) of section 80A and the provisions of sub-sections (7) and (10) of section 80-IA shall, so far as may be, apply to this section in respect of goods or services or assets held for the purposes of the specified business.

(8) For the purposes of this section,—

(a) an "associated person", in relation to the assessee, means a person,—

1 of 1956.

19 of 2006.

(i) who participates, directly or indirectly, or through one or more intermediaries in the management or control or capital of the assessee;

(ii) who holds, directly or indirectly, shares carrying not less than twenty-six per cent. of the voting power in the capital of the assessee;

(iii) who appoints more than half of the Board of directors or members of the governing board, or one or more executive directors or executive members of the governing board of the assessee; or

(iv) who guarantees not less than ten per cent. of the total borrowings of the assessee;

(b) "cold chain facility" means a chain of facilities for storage or transportation of agricultural and forest produce, meat and meat products, poultry, marine and dairy products, products of horticulture, floriculture and apiculture and processed food items under scientifically controlled conditions including refrigeration and other facilities necessary for the preservation of such produce;

(c) "specified business" means any one or more of the following business, namely:—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network;

(d) any machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if—

(i) such machinery or plant was not, at any time prior to the date of the installation by the assessee, used in India;

(ii) such machinery or plant is imported into India from any country outside India; and

(iii) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee;

(e) where in the case of a specified business, any machinery or plant or any part thereof previously used for any purpose is transferred to the specified business and the total value of the machinery or plant or part so transferred does not exceed twenty per cent. of the total value of the machinery or plant used in such business, then, for the purposes of clause (ii) of sub-section (2), the condition specified therein shall be deemed to have been complied with;

(f) any expenditure of capital nature shall not include any expenditure incurred on the acquisition of any land or goodwill or financial instrument.

Amendment
of section 36.

14. In section 36 of the Income-tax Act, in sub-section (1),—

(a) in clause (iiia), in the *Explanation*, in clause (i), after the words "public sector company", at both the places where they occur, the words "or scheduled bank" shall be inserted;

(b) in clause (viii), in the *Explanation*, in clause (b), for sub-clause (i), the following sub-clause shall be substituted with effect from the 1st day of April, 2010, namely:—

"(i) in respect of the specified entity referred to in sub-clause (i) or sub-clause (ii) or sub-clause (iii) or sub-clause (iv) of clause (a), the business of providing long-term finance for—

(A) industrial or agricultural development;

(B) development of infrastructure facility in India; or

(C) development of housing in India;"

(c) clause (xvi) shall be omitted.

15. In section 40 of the Income-tax Act, in clause (b), in sub-clause (v), for items (1) and (2), the following shall be substituted with effect from the 1st day of April, 2010, namely:— Amendment of section 40.

"(a) on the first Rs.3,00,000 of the book-profit or in case of a loss Rs.1,50,000 or at the rate of 90 per cent. of the book-profit, whichever is more;

(b) on the balance of the book-profit at the rate of 60 per cent.:"

16. In section 40A of the Income-tax Act, in sub-section (3A), after the proviso, the following proviso shall be inserted with effect from the 1st day of October, 2009, namely:— Amendment of section 40A.

"Provided further that in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words "twenty thousand rupees", the words "thirty-five thousand rupees" had been substituted."

17. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2010,— Amendment of section 43.

(a) in clause (1), after *Explanation* 12, the following *Explanation* shall be inserted, namely:—

"*Explanation* 13.— The actual cost of any capital asset on which deduction has been allowed or is allowable to the assessee under section 35AD, shall be treated as 'nil',—

(a) in the case of such assessee; and

(b) in any other case if the capital asset is acquired or received,—

(i) by way of gift or will or an irrevocable trust;

(ii) on any distribution on liquidation of the company; and

(iii) by such mode of transfer as is referred to in clauses (i),

(iv), (v), (vi), (vib), (xiii) and (xiv) of section 47;"

(b) in clause (6), after *Explanation* 6, the following *Explanation* shall be inserted, namely:—

"*Explanation* 7.— For the purposes of this clause, where the income of an assessee is derived, in part from agriculture and in part from business chargeable to income-tax under the head "Profits and gains of business or profession", for computing the written down value of assets acquired before the previous year, the total amount of depreciation shall be computed as if the entire income is derived from the business of the assessee under the head "Profits and gains of business or profession" and the depreciation so computed shall be deemed to be the depreciation actually allowed under this Act."

18. In section 44AA of the Income-tax Act, in sub-section (2), with effect from the 1st day of April, 2011,— Amendment of section 44AA.

(a) in clause (iii),—

(i) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, figures and letters "section 44AE" shall be substituted;

(ii) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;

(b) after clause (iii), the following clause shall be inserted, namely:—

"(iv) where the profits and gains from the business are deemed to be the profits and gains of the assessee under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax during such previous year,".

Amendment
of section
44AB.

19. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2011,—

(a) in clause (c),—

(i) for the words, figures and letters "section 44AD or section 44AE or section 44AF", the word, figures and letters "section 44AE" shall be substituted;

(ii) for the words "previous year," occurring at the end, the words "previous year; or" shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:—

"(d) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AD and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his business and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,".

Substitution of
new section for
section 44AD.

Special
provision for
computing
profits and
gains of
business on
presumptive
basis.

20. For section 44AD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2011, namely:—

'44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent. of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

(2) Any deduction allowable under the provisions of sections 30 to 38 shall, for the purposes of sub-section (1), be deemed to have been already given full effect to and no further deduction under those sections shall be allowed:

Provided that where the eligible assessee is a firm, the salary and interest paid to its partners shall be deducted from the income computed under sub-section (1) subject to the conditions and limits specified in clause (b) of section 40.

(3) The written down value of any asset of an eligible business shall be deemed to have been calculated as if the eligible assessee had claimed and had been actually allowed the deduction in respect of the depreciation for each of the relevant assessment years.

(4) The provisions of Chapter XVII-C shall not apply to an eligible assessee in so far as they relate to the eligible business.

(5) Notwithstanding anything contained in the foregoing provisions of this section, an eligible assessee who claims that his profits and gains from the eligible business are lower than the profits and gains specified in sub-section (1) and whose total income exceeds the maximum amount which is not chargeable to income-tax,

shall be required to keep and maintain such books of account and other documents as required under sub-section (2) of section 44AA and get them audited and furnish a report of such audit as required under section 44AB.

Explanation.— For the purposes of this section,—

(a) "eligible assessee" means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; and

(ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" in the relevant assessment year;

(b) "eligible business" means,—

(i) any business except the business of plying, hiring or leasing goods carriages referred to in section 44AE; and

(ii) whose total turnover or gross receipts in the previous year does not exceed an amount of forty lakh rupees.

21. In section 44AE of the Income-tax Act, for sub-section (2), the following sub-section shall be substituted with effect from the 1st day of April, 2011, namely:—

Amendment of section 44AE.

"(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

(i) being a heavy goods vehicle, shall be an amount equal to five thousand rupees for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;

(ii) other than a heavy goods vehicle, shall be an amount equal to four thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher."

22. In section 44AF of the Income-tax Act, after sub-section (5), the following sub-section shall be inserted; namely:—

Amendment of section 44AF.

"(6) Nothing contained in this section shall apply to any assessment year beginning on or after the 1st day of April, 2011."

23. In section 49 of the Income-tax Act,—

Amendment of section 49.

(a) for sub-section (2AA), the following sub-section shall be substituted with effect from the 1st day of April, 2010, namely:—

"(2AA) Where the capital gain arises from the transfer of specified security or sweat equity shares referred to in sub-clause (vi) of clause (2) of section 17, the cost of acquisition of such security or shares shall be the fair market value which has been taken into account for the purposes of the said sub-clause."

(b) after sub-section (3), the following sub-section shall be inserted with effect from the 1st day of October, 2009, namely:—

"(4) Where the capital gain arises from the transfer of a property, the value of which has been subject to income-tax under clause (vii) of sub-section (2) of section 56, the cost of acquisition of such property shall be deemed to be the value which has been taken into account for the purposes of the said clause (vii)."

24. In section 50B of the Income-tax Act, in *Explanation 2* with effect from the 1st day of April, 2010,—

Amendment of section 50B.

(i) in clause (a), the word "and" occurring at the end, shall be omitted;

(ii) for clause (b), the following clauses shall be substituted, namely:—

"(b) in the case of capital assets in respect of which the whole of the expenditure has been allowed or is allowable as a deduction under section 35AD, nil; and

(c) in the case of other assets, the book value of such assets."

Amendment of
section 50C.

25. In section 50C of the Income-tax Act, with effect from the 1st day of October, 2009,—

(a) for the words "or assessed" wherever they occur, the words "or assessed or assessable" shall be substituted;

(b) in sub-section (2), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

Explanation 2.—For the purposes of this section, the expression "assessable" means the price which the stamp valuation authority would have, notwithstanding anything to the contrary contained in any other law for the time being in force, adopted or assessed, if it were referred to such authority for the purposes of the payment of stamp duty.

Amendment of
section 56.

26. In section 56 of the Income-tax Act, in sub-section (2),—

(a) with effect from the 1st day of October, 2009,—

(i) in clause (vi), after the words, figures and letters "on or after the 1st day of April, 2006", the words, figures and letters "but before the 1st day of October, 2009" shall be inserted;

(ii) after clause (vi), the following clause shall be inserted, namely:—

(vii) where an individual or a Hindu undivided family receives, in any previous year, from any person or persons on or after the 1st day of October, 2009,—

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property,—

(i) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(ii) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration;

(c) any property, other than immovable property,—

(i) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(ii) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration;

Provided that where the stamp duty value of immovable property as referred to in sub-clause (b) is disputed by the assessee on grounds mentioned in sub-section (2) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (15) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of sub-clause (b) as they apply for valuation of capital asset under those sections:

Provided further that this clause shall not apply to any sum of money or any property received—

- (a) from any relative; or
- (b) on the occasion of the marriage of the individual; or
- (c) under a will or by way of inheritance; or
- (d) in contemplation of death of the payer or donor, as the case may be; or
- (e) from any local authority as defined in the *Explanation* to clause (20) of section 10; or
- (f) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (23C) of section 10; or
- (g) from any trust or institution registered under section 12AA.

Explanation.—For the purposes of this clause,—

(a) "assessable" shall have the meaning assigned to it in *Explanation 2* to sub-section (2) of section 50C;

(b) "fair market value" of a property, other than an immovable property, means the value determined in accordance with the method as may be prescribed;

(c) "jewellery" shall have the meaning assigned to it in the *Explanation* to sub-clause (ii) of clause (14) of section 2;

(d) "property" means—

- (i) immovable property being land or building or both;
- (ii) shares and securities;
- (iii) jewellery;
- (iv) archaeological collections;
- (v) drawings;
- (vi) paintings;
- (vii) sculptures; or
- (viii) any work of art;

(e) "relative" shall have the meaning assigned to it in the *Explanation* to clause (vi) of sub-section (2) of this section;

(f) "stamp duty value" means the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property;";

(b) after clause (vii) as so inserted, the following clause shall be inserted with effect from the 1st day of April, 2010, namely:—

"(viii) income by way of interest received on compensation or on enhanced compensation referred to in clause (b) of section 145A."

27. In section 57 of the Income-tax Act, after clause (iii), the following clause shall be inserted at the end with effect from the 1st day of April, 2010, namely:— Amendment of section 57.

"(iv) in the case of income of the nature referred to in clause (viii) of sub-section (2) of section 56, a deduction of a sum equal to fifty per cent. of such income and no deduction shall be allowed under any other clause of this section."

Insertion of
new section
73A.

Carry forward
and set off of
losses by
specified
business.

28. After section 73 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

"73A. (1) Any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business.

(2) Where for any assessment year any loss computed in respect of the specified business referred to in sub-section (1) has not been wholly set off under sub-section (1), so much of the loss as is not so set off or the whole loss where the assessee has no income from any other specified business, shall, subject to the other provisions of this Chapter, be carried forward to the following assessment year, and —

(i) it shall be set off against the profits and gains, if any, of any specified business carried on by him assessable for that assessment year; and

(ii) if the loss can not be wholly so set off, the amount of loss not so set off shall be carried forward to the following assessment year and so on."

Amendment
of section
80A.

29. In section 80A of the Income-tax Act,—

(a) after sub-section (3), the following sub-sections shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2003, namely:—

(4) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C—Deductions in respect of certain incomes*", where, in the case of an assessee, any amount of profits and gains of an undertaking or unit or enterprise or eligible business is claimed and allowed as a deduction under any of those provisions for any assessment year, deduction in respect of, and to the extent of, such profits and gains shall not be allowed under any other provisions of this Act for such assessment year and shall in no case exceed the profits and gains of such undertaking or unit or enterprise or eligible business, as the case may be.

(5) Where the assessee fails to make a claim in his return of income for any deduction under section 10A or section 10AA or section 10B or section 10BA or under any provision of this Chapter under the heading "*C—Deductions in respect of certain incomes*", no deduction shall be allowed to him thereunder;

(b) after sub-section (5) as so inserted, the following sub-section shall be inserted, namely:—

(6) Notwithstanding anything to the contrary contained in section 10A or section 10AA or section 10B or section 10BA or in any provisions of this Chapter under the heading "*C—Deductions in respect of certain incomes*", where any goods or services held for the purposes of the undertaking or unit or enterprise or eligible business are transferred to any other business carried on by the assessee or where any goods or services held for the purposes of any other business carried on by the assessee are transferred to the undertaking or unit or enterprise or eligible business and, the consideration, if any, for such transfer as recorded in the accounts of the undertaking or unit or enterprise or eligible business does not correspond to the market value of such goods or services as on the date of the transfer, then, for the purposes of any deduction under this Chapter, the profits and gains of such undertaking or unit or enterprise or eligible business shall be computed as if the transfer, in either case, had been made at the market value of such goods or services as on that date.

Explanation.—For the purposes of this sub-section, the expression "market value",—

(i) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(ii) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any.

30. In section 80CCD of the Income-tax Act,—

Amendment
of section
80CCD.

(a) in sub-section (1),—

(i) in the opening portion, after the words, figures and letters "Where an assessee, being an individual employed by the Central Government or any other employer on or after the 1st day of January, 2004," the words "or any other assessee, being an individual" shall be inserted;

(ii) for the words "as does not exceed ten per cent. of his salary in the previous year", the following words shall be substituted, namely:—

"as does not exceed,—

(a) in the case of an employee, ten per cent. of his salary in the previous year; and

(b) in any other case, ten per cent. of his gross total income in the previous year;"

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) For the purposes of this section, the assessee shall be deemed not to have received any amount in the previous year if such amount is used for purchasing an annuity plan in the same previous year."

31. In section 80DD of the Income-tax Act, in sub-section (1), in the proviso, for the words "seventy-five thousand rupees", the words "one hundred thousand rupees" shall be substituted with effect from the 1st day of April, 2010.

Amendment
of section
80DD.

32. In section 80E of the Income-tax Act, in sub-section (3), with effect from the 1st day of April, 2010,—

Amendment
of section
80E.

(i) for clause (c), the following clause shall be substituted, namely:—

"(c) "higher education" means any course of study pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorised by the Central Government or State Government or local authority to do so;"

(ii) for clause (e), the following clause shall be substituted, namely:—

"(e) "relative", in relation to an individual, means the spouse and children of that individual or the student for whom the individual is the legal guardian."

33. In section 80G of the Income-tax Act, in sub-section (5),—

Amendment
of section
80G.

(a) in clause (v), the word "and" occurring at the end shall be omitted;

(b) in clause (vi), for the words "made in this behalf:", the words "made in this behalf; and" shall be substituted;

(c) in clause (vi), the proviso shall be omitted with effect from the 1st day of October, 2009;

(d) after clause (vi), the following clause shall be inserted, namely:—

"(vii) where any institution or fund had been approved under clause (vi) for the previous year beginning on the 1st day of April, 2007 and ending on the 31st day of March, 2008, such institution or fund shall, for the purposes of this section and notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,—

(a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009; and

(b) approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009."

Amendment of
section 80GGB.

34. In section 80GGB of the Income-tax Act, after the words "political party", the words "or an electoral trust" shall be inserted with effect from the 1st day of April, 2010.

Amendment of
section 80GGC.

35. In section 80GGC of the Income-tax Act, for the words "to a political party", the words "to a political party or an electoral trust" shall be substituted with effect from the 1st day of April, 2010.

Amendment of
section 80-IA.

36. In section 80-IA of the Income-tax Act,—

(a) in sub-section (2), the words "or lays and begins to operate a cross-country natural gas distribution network" shall be omitted with effect from the 1st day of April, 2010;

(b) in sub-section (3), the words, brackets and letters "or clause (vi)" shall be omitted with effect from the 1st day of April, 2010;

(c) in sub-section (4),—

(A) in clause (iii), in the second proviso, for the words, figures and letters "the 31st day of March, 2009", the words, figures and letters "the 31st day of March, 2011" shall be substituted;

(B) in clause (iv), for the words, figures and letters "the 31st day of March, 2010" wherever they occur, the words, figures and letters "31st day of March, 2011" shall be substituted;

(C) in clause (v), in sub-clause (b), for the figures, letters and words "31st day of March, 2008", the figures, letters and words "the 31st day of March, 2011" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2008;

(D) clause (vi) shall be omitted with effect from the 1st day of April, 2010;

(d) after sub-section (13), for the *Explanation*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—

"*Explanation*.—For the removal of doubts, it is hereby declared that nothing contained in this section shall apply in relation to a business referred to in sub-section (4) which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by the undertaking or enterprise referred to in sub-section (1)."

Amendment of
section 80-IB.

37. In section 80-IB of the Income-tax Act,—

(a) for sub-section (9), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2000, namely:—

(9) The amount of deduction to an undertaking shall be hundred per cent. of the profits for a period of seven consecutive assessment years, including the initial assessment year, if such undertaking fulfils any of the following, namely:—

(i) is located in North-Eastern Region and has begun or begins commercial production of mineral oil before the 1st day of April, 1997;

(ii) is located in any part of India and has begun or begins commercial production of mineral oil on or after the 1st day of April, 1997;

(iii) is engaged in refining of mineral oil and begins such refining on or after the 1st day of October, 1998.

Explanation.— For the purposes of claiming deduction under this sub-section, all blocks licensed under a single contract, which has been awarded under the New Exploration Licencing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONGDO.VL, dated 10th February, 1999 or has been awarded in pursuance of any law for the time being in force or has been awarded by the Central or a State Government in any other manner, shall be treated as a single "undertaking".

(b) in sub-section (9), as so substituted,—

(A) in clause (iii), after the words, figures and letters "the 1st day of

October, 1998", the words, figures and letters "but not later than the 31st day of March, 2012" shall be inserted;

(B) after clause (iii), the following clauses shall be inserted with effect from the 1st day of April, 2010, namely:—

(iv) is engaged in commercial production of natural gas in blocks licensed under the VIII Round of bidding for award of exploration contracts (hereafter referred to as "NELP-VIII") under the New Exploration Licencing Policy announced by the Government of India *vide* Resolution No. O-19018/22/95-ONG.DO.VL, dated 10th February, 1999 and begins commercial production of natural gas on or after the 1st day of April, 2009;

(v) is engaged in commercial production of natural gas in blocks licensed under the IV Round of bidding for award of exploration contracts for Coal Bed Methane blocks and begins commercial production of natural gas on or after the 1st day of April, 2009;

(c) in sub-section (10),—

(i) in the opening portion, for the figures, letters and words "31st day of March, 2007", the figures, letters and words "31st day of March, 2008" shall be substituted;

(ii) in clause (c), for the words "any other place; and", the words "any other place;" shall be substituted with effect from the 1st day of April, 2010;

(iii) after clause (d), the following clauses shall be inserted with effect from the 1st day of April, 2010, namely:—

"(e) not more than one residential unit in the housing project is allotted to any person not being an individual; and

(f) in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons, namely:—

(i) the individual or the spouse or the minor children of such individual,

(ii) the Hindu undivided family in which such individual is the *karta*,

(iii) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the *karta*,";

(iv) the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government)."

(d) in sub-section (11A), with effect from the 1st day of April, 2010,—

(i) after the words "vegetables or", the following words shall be inserted, namely:—

"meat and meat products or poultry or marine or dairy products or";

(ii) the following proviso shall be inserted, namely:—

"Provided that the provisions of this section shall not apply to an undertaking engaged in the business of processing, preservation and packaging of meat or meat products or poultry or marine or dairy products if it begins to operate such business before the 1st day of April, 2009."

38. In section 80U of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

Amendment of section 80U.

"Provided further that for the assessment years beginning on or after the 1st day of April, 2010, the provisions of the first proviso shall have effect as if for the words "seventy-five thousand rupees", the words "one lakh rupees" had been substituted."

39. In section 89 of the Income-tax Act, the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

Amendment of section 89.

"Provided that no such relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in the case of a

public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of any amount received or receivable on such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year."

Substitution of new section for section 90. Agreement with foreign countries or specified territories.

40. For section 90 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:—

'90. (1) The Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India,—

(a) for the granting of relief in respect of—

(i) income on which have been paid both income-tax under this Act and income-tax in that country or specified territory, as the case may be, or

(ii) income-tax chargeable under this Act and under the corresponding law in force in that country or specified territory, as the case may be, to promote mutual economic relations, trade and investment, or

(b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, or

(c) for exchange of information for the prevention of evasion or avoidance of income-tax chargeable under this Act or under the corresponding law in force in that country or specified territory, as the case may be, or investigation of cases of such evasion or avoidance, or

(d) for recovery of income-tax under this Act and under the corresponding law in force in that country or specified territory, as the case may be,

and may, by notification in the Official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where the Central Government has entered into an agreement with the Government of any country outside India or specified territory outside India, as the case may be, under sub-section (1) for granting relief of tax, or as the case may be, avoidance of double taxation, then, in relation to the assessee to whom such agreement applies, the provisions of this Act shall apply to the extent they are more beneficial to that assessee.

(3) Any term used but not defined in this Act or in the agreement referred to in sub-section (1) shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

Explanation 1.—For the removal of doubts, it is hereby declared that the charge of tax in respect of a foreign company at a rate higher than the rate at which a domestic company is chargeable, shall not be regarded as less favourable charge or levy of tax in respect of such foreign company.

Explanation 2.—For the purposes of this section, "specified territory" means any area outside India which may be notified as such by the Central Government.'

Amendment of section 92C.

41. In section 92C of the Income-tax Act, in sub-section (2), for the proviso, the following provisos shall be substituted with effect from the 1st day of October, 2009, namely:—

"Provided that where more than one price is determined by the most appropriate method, the arm's length price shall be taken to be the arithmetical mean of such prices:

Provided further that if the variation between the arm's length price so determined and price at which the international transaction has actually been undertaken does not exceed five per cent. of the latter, the price at which the international transaction has actually been undertaken shall be deemed to be the arm's length price."

Insertion of new section 92CB.

42. After section 92CA of the Income-tax Act, the following section shall be inserted, namely:—

Power of Board to make safe harbour rules.

'92CB. (1) The determination of arm's length price under section 92C or section 92CA shall be subject to safe harbour rules.

(2) The Board may, for the purposes of sub-section (1), make rules for safe harbour.

Explanation.—For the purposes of this section, "safe harbour" means

circumstances in which the income-tax authorities shall accept the transfer price declared by the assessee.

43. In section 115BBC of the Income-tax Act, in sub-section (1), with effect from the 1st day of April, 2010,—

Amendment of
section
115BBC.

(a) for clause (i), the following clause shall be substituted, namely:—

“(i) the amount of income-tax calculated at the rate of thirty per cent. on the aggregate of anonymous donations received in excess of the higher of the following, namely:—

(A) five per cent. of the total donations received by the assessee; or

(B) one lakh rupees; and

(b) for clause (ii), the following clause shall be substituted, namely:—

“(ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of anonymous donations received.”

44. In section 115JA of the Income-tax Act, in sub-section (2), after the second proviso, in the *Explanation*, after clause (f), for the words, brackets and letters “if any amount referred to in clauses (a) to (f) is debited to the profit and loss account, and as reduced by,—” the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1998, namely:—

Amendment of
section 115JA.

“(g) the amount or amounts set aside as provision for diminution in the value of any asset,

if any amount referred to in clauses (a) to (g) is debited to the profit and loss account, and as reduced by,—”

45. In section 115JAA of the Income-tax Act, in sub-section (3A), for the words “seventh assessment year”, the words “tenth assessment year” shall be substituted with effect from the 1st day of April, 2010.

Amendment of
section
115JAA.

46. In section 115JB of the Income-tax Act,—

Amendment of
section 115JB.

(a) in sub-section (1), with effect from the 1st day of April, 2010,—

(i) for the words, figures and letters “the 1st day of April, 2007”, the words, figures and letters “the 1st day of April, 2010” shall be substituted;

(ii) for the words “ten per cent.”, at both the places where they occur, the words “fifteen per cent.” shall be substituted;

(b) in sub-section (2), after the second proviso, in *Explanation 1*, after clause (h), for the words, brackets and letters “if any amount referred to in clauses (a) to (h) is debited to the profit and loss account, and as reduced by,—”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2001, namely:—

“(i) the amount or amounts set aside as provision for diminution in the value of any asset,

if any amount referred to in clauses (a) to (i) is debited to the profit and loss account, and as reduced by,—”

47. In section 115-O of the Income-tax Act, for sub-section (1A), the following shall be substituted, namely:—

Amendment of
section 115-O.

“(1A) The amount referred to in sub-section (1) shall be reduced by,—

(i) the amount of dividend, if any, received by the domestic company during the financial year, if—

(a) such dividend is received from its subsidiary;

(b) the subsidiary has paid tax under this section on such dividend;
and

(c) the domestic company is not a subsidiary of any other company:

Provided that the same amount of dividend shall not be taken into account for reduction more than once;

(ii) the amount of dividend, if any, paid to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.

Explanation.— For the purposes of this sub-section, a company shall be a subsidiary of another company, if such other company, holds more than half in nominal value of the equity share capital of the company."

Amendment of
section
115WE.

48. In section 115WE of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010" shall be substituted.

Insertion of new
section 115WM.

49. After section 115WL of the Income-tax Act, the following section shall be inserted, namely:—

Chapter XII-H
not to apply after
a certain date.

"115WM. Nothing contained in this Chapter shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year."

Amendment
of section
131.

50. In section 131 of the Income-tax Act, in sub-section (1), for the words "and Chief Commissioner or Commissioner", the words ", Chief Commissioner or Commissioner and the Dispute Resolution Panel referred to in clause (a) of sub-section (15) of section 144C" shall be substituted with effect from the 1st day of October, 2009.

Amendment
of section
132.

51. In section 132 of the Income-tax Act,—

(a) in sub-section (1),—

(i) for the words "Where the Director General or Director or the Chief Commissioner or Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board," the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994;

(ii) after the words "Where the Director General or Director or the Chief Commissioner or Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998;

(iii) in clause (A), after the words "may authorise any", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(iv) in clause (B), after the word "such", the words "Additional Director or Additional Commissioner or" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994;

(v) after the third proviso, the following proviso shall be inserted, namely:—

"Provided also that no authorisation shall be issued by the Additional Director or Additional Commissioner or Joint Director or Joint Commissioner on or after the 1st day of October, 2009 unless he has been empowered by the Board to do so.";

(b) in sub-section (1A),—

(i) for the words "Commissioner or any such Joint Director or Joint Commissioner as may be empowered in this behalf by the Board", the words "Commissioner or Additional Director or Additional Commissioner" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 1994;

(ii) after the words "Commissioner or Additional Director or Additional Commissioner" as so substituted, the words "or Joint Director or Joint Commissioner" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of October, 1998.

52. In section 132A of the Income-tax Act, in sub-section (1), after clause (c), after the words "Chief Commissioner or Commissioner may authorise any", the words "Additional Director, Additional Commissioner," shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 1994. Amendment of section 132A.

53. In section 139A of the Income-tax Act, with effect from the 1st day of October, 2009,— Amendment of section 139A.

(a) in sub-section (5B), in clause (iv), the word "quarterly" shall be omitted;

(b) in sub-section (5D), in clause (iii), the word "quarterly" shall be omitted.

54. In section 140 of the Income-tax Act, after clause (cc), the following clause shall be inserted with effect from the 1st day of April, 2010, namely:— Amendment of section 140.

"(cd) in the case of a limited liability partnership, by the designated partner thereof, or where for any unavoidable reason such designated partner is not able to sign and verify the return, or where there is no designated partner as such, by any partner thereof."

55. In section 143 of the Income-tax Act, in sub-section (1B), for the words, figures and letters "after the 31st day of March, 2009", the words, figures and letters "after the 31st day of March, 2010", shall be substituted. Amendment of section 143.

56. After section 144B of the Income-tax Act, the following section shall be inserted, namely:— Insertion of new section 144C.

'144C. (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation in the income or loss returned which is prejudicial to the interest of such assessee. Reference to Dispute Resolution Panel.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,—

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) The Assessing Officer shall, notwithstanding anything contained in section 153, pass the assessment order under sub-section (3) within one month from the end of the month in which,—

(a) the acceptance is received; or

(b) the period of filing of objections under sub-section (2) expires.

(5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.

(6) The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—

(a) draft order;

(b) objections filed by the assessee;

(c) evidence furnished by the assessee;

(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;

(e) records relating to the draft order;

(f) evidence collected by, or caused to be collected by, it; and

(g) result of any enquiry made by, or caused to be made by, it.

(7) The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—

(a) make such further enquiry, as it thinks fit; or

(b) cause any further enquiry to be made by any income-tax authority and report the result of the same to it.

(8) The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.

(9) If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.

(10) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.

(11) No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.

(12) No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.

(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.

(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.

(15) For the purposes of this section,—

(a) "Dispute Resolution Panel" means a collegium comprising of three Commissioners of Income-tax constituted by the Board for this purpose;

(b) "eligible assessee" means,—

(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of section 92CA; and

(ii) any foreign company.

57. For section 145A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2010, namely:—

Substitution of new section for section 145A. Method of accounting in certain cases.

'145A. Notwithstanding anything to the contrary contained in section 145,—

(a) the valuation of purchase and sale of goods and inventory for the purposes of determining the income chargeable under the head "Profits and gains of business or profession" shall be—

(i) in accordance with the method of accounting regularly employed by the assessee; and

(ii) further adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods to the place of its location and condition as on the date of valuation.

Explanation.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.

(b) interest received by an assessee on compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

58. In section 147 of the Income-tax Act, after *Explanation 2*, the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1989, namely:—

Amendment of section 147.

"Explanation 3.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, notwithstanding that the reasons for such issue have not been included in the reasons recorded under sub-section (2) of section 148."

59. After section 167B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

Insertion of new section 167C.

"167C. Notwithstanding anything contained in the Limited Liability Partnership Act, 2008, where any tax due from a limited liability partnership in respect of any income of any previous year or from any other person in respect of any income of any previous year during which such other person was a limited liability partnership cannot be recovered, in such case, every person who was a partner of the limited liability partnership at any time during the relevant previous year, shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the limited liability partnership."

Liability of partners of limited liability partnership in liquidation.

60. In section 194A of the Income-tax Act, in sub-section (3), in clause (x), after the words "public sector company" at both the places where they occur, the words "or scheduled bank" shall be inserted.

Amendment of section 194A.

Substitution of
new section for
section 194C.

Payments to
contractors.

61. For section 194C of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:—

*194C. (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent. where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(ii) two per cent. where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family,

of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed twenty thousand rupees:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in sub-section (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

Explanation.—For the purposes of this section,—

(i) "specified person" shall mean,—

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

21 of 1860.

(g) any society registered under the Societies Registration Act, 1860 or under any law corresponding to that Act in force in any part of India; or

(h) any trust; or

3 of 1956.

(i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(A) does not fall under any of the preceding sub-clauses; and

(B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) "goods carriage" shall have the meaning assigned to it in the Explanation to sub-section (7) of section 44AE;

(iii) "contract" shall include sub-contract;

(iv) "work" shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer,

but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.

62. In section 194-I of the Income-tax Act, for clauses (a), (b) and (c), the following clauses shall be substituted with effect from the 1st day of October, 2009, namely:—

Amendment of section 194-I.

"(a) two per cent. for the use of any machinery or plant or equipment; and

(b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings."

Amendment
of section
197A.

63. In section 197A of the Income-tax Act, after sub-section (1D), the following sub-section shall be inserted, namely:—

“(1E) Notwithstanding anything contained in this Chapter, no deduction of tax shall be made from any payment to any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10.”.

Amendment of
section 200.

64. In section 200 of the Income-tax Act, in sub-section (3), for the words, figures and letters “prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year”, the words “prepare such statements for such period as may be prescribed” shall be substituted with effect from the 1st day of October, 2009.

Insertion of new
section 200A.

65. After section 200 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:—

Processing of
statements of
tax deducted at
source.

‘200A.(1) Where a statement of tax deduction at source has been made by a person deducting any sum (hereafter referred to in this section as deductor) under section 200, such statement shall be processed in the following manner, namely:—

(a) the sums deductible under this Chapter shall be computed after making the following adjustments, namely:—

(i) any arithmetical error in the statement; or

(ii) an incorrect claim, apparent from any information in the statement;

(b) the interest, if any, shall be computed on the basis of the sums deductible as computed in the statement;

(c) the sum payable by, or the amount of refund due to, the deductor shall be determined after adjustment of amount computed under clause (b) against any amount paid under section 200 and section 201, and any amount paid otherwise by way of tax or interest;

(d) an intimation shall be prepared or generated and sent to the deductor specifying the sum determined to be payable by, or the amount of refund due to, him under clause (c); and

(e) the amount of refund due to the deductor in pursuance of the determination under clause (c) shall be granted to the deductor.

Provided that no intimation under this sub-section shall be sent after the expiry of one year from the end of the financial year in which the statement is filed.

Explanation.—For the purposes of this sub-section, “an incorrect claim apparent from any information in the statement” shall mean a claim, on the basis of an entry, in the statement—

(i) of an item, which is inconsistent with another entry of the same or some other item in such statement;

(ii) in respect of rate of deduction of tax at source, where such rate is not in accordance with the provisions of this Act.

(2) For the purposes of processing of statements under sub-section (1), the Board may make a scheme for centralised processing of statements of tax deducted at source to expeditiously determine the tax payable by, or the refund due to, the deductor as required under the said sub-section.

Amendment of
section 201.

66. In section 201 of the Income-tax Act,—

(a) in sub-section (1A), for the words “the quarterly statement for each quarter”, the words “the statement” shall be substituted with effect from the 1st day of October, 2009;

(b) after sub-section (2), the following sub-sections shall be inserted with effect from the 1st day of April, 2010, namely:—

“(3) No order shall be made under sub-section (1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax from a person resident in India, at any time after the expiry of—

(i) two years from the end of the financial year in which the statement is filed in a case where the statement referred to in section 200 has been filed;

(ii) four years from the end of the financial year in which payment is made or credit is given, in any other case:

Provided that such order for a financial year commencing on or before the 1st day of April, 2007 may be passed at any time on or before the 31st day of March, 2011.

(4) The provisions of sub-clause (ii) of sub-section (3) of section 153 and of *Explanation 1* to section 153 shall, so far as may, apply to the time limit prescribed in sub-section (3).”

67. In section 203A of the Income-tax Act, in sub-section (2), in clause (ba), the word “quarterly” shall be omitted with effect from the 1st day of October, 2009. Amendment of section 203A.

68. In section 206A of the Income-tax Act, with effect from the 1st day of October, 2009— Amendment of section 206A.

(a) in sub-section (1), for the words, figures and letters “quarterly returns for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year”, the words “such statements for such period as may be prescribed” shall be substituted;

(b) in sub-section (2), for the words “quarterly returns”, the words “such statements” shall be substituted.

69. After section 206A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2010, namely:— Insertion of new section 206AA.

“206AA. (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:— Requirement to furnish Permanent Account Number.

(i) at the rate specified in the relevant provision of this Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of twenty per cent.

(2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.”

Amendment of section 206C.

70. In section 206C of the Income-tax Act, in sub-section (3), in the proviso, for the words, figures and letters “prepare quarterly statements for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year”, the words “prepare such statements for such period as may be prescribed” shall be substituted with effect from the 1st day of October, 2009.

Amendment of section 208.

71. In section 208 of the Income-tax Act, for the words “five thousand rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of section 246A.

72. In section 246A of the Income-tax Act, in sub-section (1), with effect from the 1st day of October, 2009,—

(i) in clause (a), for the words, brackets and figures “under sub-section (3) of section 143”, the words, brackets and figures “under sub-section (3) of section 143 except an order passed in pursuance of directions of the Dispute Resolution Panel” shall be substituted;

(ii) in clause (b), after the words and figures “under section 147”, the words “except an order passed in pursuance of directions of the Dispute Resolution Panel” shall be inserted.

Amendment of section 253.

73. In section 253 of the Income-tax Act, in sub-section (1), with effect from the 1st day of October, 2009,—

(a) in clause (c), for the words, figures and letter “Director under section 272A.”, the words, figures and letter “Director under section 272A; or” shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:—

“(d) an order passed by an Assessing Officer under sub-section (3), of section 143 or section 147 in pursuance of the directions of the Dispute Resolution Panel or an order passed under section 154 in respect of such order.”.

Amendment of section 271.

74. In section 271 of the Income-tax Act, in sub-section (1), for *Explanation 5A*, the following *Explanation* shall be substituted and shall be deemed to have been substituted with effect from the 1st day of June, 2007, namely:—

“*Explanation 5A*.—Where, in the course of a search initiated under section 132 on or after the 1st day of June, 2007, the assessee is found to be the owner of—

(i) any money, bullion, jewellery or other valuable article or thing (hereafter in this *Explanation* referred to as assets) and the assessee claims that such assets have been acquired by him by utilising (wholly or in part) his income for any previous year; or

(ii) any income based on any entry in any books of account or other documents or transactions and he claims that such entry in the books of account or other documents or transactions represents his income (wholly or in part) for any previous year,

which has ended before the date of search and,—

(a) where the return of income for such previous year has been furnished before the said date but such income has not been declared therein; or

(b) the due date for filing the return of income for such previous year has expired but the assessee has not filed the return,

then, notwithstanding that such income is declared by him in any return of income furnished on or after the date of search, he shall, for the purposes of imposition of a penalty under clause (c) of sub-section (1) of this section, be deemed to have concealed the particulars of his income or furnished inaccurate particulars of such income.”.

Amendment of section 272A.

75. In section 272A of the Income-tax Act, in sub-section (2), in clause (1), for the words “quarterly return”, the word “statements” shall be substituted with effect from the 1st day of October, 2009.

Amendment of section 281B.

76. In section 281B of the Income-tax Act, in sub-section (2), after the second proviso, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 1988, namely:—

"Provided also that the period during which the proceedings for assessment or reassessment are stayed by an order or injunction of any court shall be excluded from the period specified in the first proviso."

77. For section 282 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of October, 2009, namely:—

Substitution of new section for section 282.

'282. (1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as "communication") may be made by delivering or transmitting a copy thereof, to the person therein named,—

Service of notice generally.

(a) by post or by such courier services as may be approved by the Board; or

5 of 1908.

(b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

21 of 2000.

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000; or

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

21 of 2000.

Explanation.—For the purposes of this section, the expressions "electronic mail" and "electronic mail message" shall have the meanings as assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000.

78. After section 282A of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2010, namely:—

Insertion of new section 282B.

"282B. (1) Every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

Allotment of Document Identification Number.

(2) Where the notice, order, letter or any correspondence, issued by any income-tax authority, does not bear a Document Identification Number referred to in sub-section (1), such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

(3) Every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number.

(4) Where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear the Document Identification Number referred to in sub-section (3), such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received."

79. After section 293B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of October, 2009, namely:—

Insertion of new section 293C.
Power to withdraw approval.

"293C. Where the Central Government or the Board or an income-tax authority, who has been conferred upon the power under any provision of this Act to grant any approval to any assessee, the Central Government or the Board or such authority may, notwithstanding that a provision to withdraw such approval has not been specifically provided for in such provision, withdraw such approval at any time:

Provided that the Central Government or Board or income-tax authority shall, after giving a reasonable opportunity of showing cause against the proposed withdrawal to the assessee concerned, at any time, withdraw the approval after recording the reasons for doing so."

Amendment
of First
Schedule.

80. In the First Schedule to the Income-tax Act, in rule 5,—

(i) for the portion beginning with the words “balance of the profits”, and ending with the words “Controller of Insurance,”, the following shall be substituted with effect from the 1st day of April, 2011, namely:—

“profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 4 of 1938.
or the rules made thereunder or the provisions of the Insurance Regulatory and Development Authority Act, 1999 or the regulations made thereunder,”; 4 of 1999.

(ii) after clause (a), the following clause shall be inserted with effect from the 1st day of April, 2011, namely:—

“(b) (i) deduction in respect of any amount either written off or provided in the accounts to meet diminution in or loss on realisation of investments in accordance with the regulations made by the Insurance Regulatory and Development Authority;

(ii) increase in respect of any amount taken credit for in the accounts on account of appreciation of or gains on realisation of investments in accordance with the regulations made by the Insurance Regulatory and Development Authority;”.

Amendment
of Fourth
Schedule.

81. In the Fourth Schedule to the Income-tax Act, in Part A, in rule 3, in sub-rule (1), in the first proviso, for the figures, letters and words “31st day of March, 2009,”, the figures, letters and words “31st day of December, 2010,” shall be substituted.

Amendment
of Thirteenth
Schedule.

82. In the Thirteenth Schedule to the Income-tax Act, under Part B, for S.No.19 and the entries relating thereto, the following S.No. and the entries shall be substituted with effect from the 1st day of April, 2010, namely:—

S. No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998
19	Manufacture of pulp-wood pulp, mechanical or chemical (including dissolving pulp)	4701.00	
	Newsprint in rolls or sheets	4801.00	
	Writing or printing paper for printing of educational textbooks	4802.10	
	Paper or paperboard, in the manufacture of which—	4802.20	
	(a) the principal process of lifting the pulp is done by hand; and		
	(b) if power driven sheet forming equipment is used, the Cylinder Mould Vat does not exceeds 40 inches		
	Maplitho paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4802.30	
	Others	4802.90	
	Toilet or facial tissue stock, towel or napkin stock and similar paper of a kind used for household or sanitary purposes, cellulose wadding and webs of cellulose fibres, whether or not creped, crinkled, embossed, perforated, surface-coloured, surface decorated or printed, in rolls of a width exceeding 36 cms. or in rectangular (including square) sheets with at least one side exceeding 36 cms. in unfolded state	4803.00	
	Kraft paper supplied to a Braille press against an indent placed by the National Institute for Visually Handicapped, Dehradun	4804.10	

S. No.	Activity or article or thing	Excise classification	Sub-class under National Industrial Classification (NIC), 1998
	Kraft paper and paperboard used in the manufacture of cartons for packing of horticultural produce	4804.20	
	Others	4804.90	
	Other uncoated paper and paperboard, in roll or sheets, not further worked or processed than as specified in Note 2 to this Chapter	4805.00	
	Grease-proof paper	4806.10	
	Glassine and other glazed transparent or translucent paper	4806.20	
	Others	4806.90	
	Straw Board, in the manufacture of which sun-drying process has been employed	4807.91	
	Straw paper and other straw board, whether or not covered with paper other than straw paper	4807.92	
	Other	4807.99	
	Carbon or similar copying papers	4809.10	
	Self-copy paper	4809.20	
	Others	4809.90	
	Paper and paperboard of a kind used for writing, printing or other graphic purposes	4810.10	
	Kraft paper and paperboard other than that of a kind used for writing, printing or other graphic purposes	4810.20	
	Other paper and paperboard	4810.90	
	Tarred, bituminized or asphalted paper and paperboard	4811.10	
	Gummed or adhesive paper and paperboard	4811.20	
	Paper and paperboard coated, impregnated or covered with plastic (excluding adhesives)		
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics (including thermoset resins or mixtures thereof or chemical formulations containing melamine, phenol, urea formaldehyde with or without curing agents or catalysts), compressed together in one or more operations; Products known commercially as decorative laminates	4811.31	
	Others	4811.39	
	Paper and paperboard, coated, impregnated or covered with wax, paraffin wax, stearin, oil or glycerol	4811.40	
	Other	4811.90	
	Cigarette paper, whether or not cut to size or in the form of booklets or tubes	4813.00.	

Wealth-tax

27 of 1957.

83. In section 3 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), after sub-section (2), the following proviso shall be inserted with effect from the 1st day of April, 2010, namely:—

Amendment of section 3.

‘Provided that in the case of every assessment year commencing on and from the 1st day of April, 2010, the provisions of this section shall have effect as if for the words “fifteen lakh rupees”, the words “thirty lakh rupees” had been substituted.’

84. In section 44A of the Wealth-tax Act, in the *Explanation*, for the words “any country”, the words “any country outside India or any territory outside India” shall be substituted with effect from the 1st day of October, 2009.

Amendment of section 44A.

CHAPTER IV

INDIRECT TAXES

Customs

Insertion of
new section
26A.

Refund of
import duty in
certain cases.

85. After section 26 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), the following section shall be inserted, namely:— 52 of 1962.

‘26A. (1) Where on the importation of any goods capable of being easily identified as such imported goods, any duty has been paid on clearance of such goods for home consumption, such duty shall be refunded to the person by whom or on whose behalf it was paid, if—

(a) the goods are found to be defective or otherwise not in conformity with the specifications agreed upon between the importer and the supplier of goods:

Provided that the goods have not been worked, repaired or used after importation except where such use was indispensable to discover the defects or non-conformity with the specifications;

(b) the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported;

(c) the importer does not claim drawback under any other provision of this Act; and

(d) (i) the goods are exported; or

(ii) the importer relinquishes his title to the goods and abandons them to customs; or

(iii) such goods are destroyed or rendered commercially valueless in the presence of the proper officer,

in such manner as may be prescribed and within a period not exceeding thirty days from the date on which the proper officer makes an order for the clearance of imported goods for home consumption under section 47:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner of Customs for a period not exceeding three months:

Provided further that nothing contained in this section shall apply to the goods regarding which an offence appears to have been committed under this Act or any other law for the time being in force.

(2) An application for refund of duty shall be made before the expiry of six months from the relevant date in such form and in such manner as may be prescribed.

Explanation.— For the purposes of this sub-section, “relevant date” means,—

(a) in cases where the goods are exported out of India, the date on which the proper officer makes an order permitting clearance and loading of goods for exportation under section 51;

(b) in cases where the title to the goods is relinquished, the date of such relinquishment;

(c) in cases where the goods are destroyed or rendered commercially valueless, the date of such destruction or rendering of goods commercially valueless.

(3) No refund under sub-section (1) shall be allowed in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period.

(4) The Board may, by notification in the Official Gazette, specify any other condition subject to which the refund under sub-section (1) may be allowed.'

86. In section 28F of the Customs Act, after sub-section (2), the following sub-sections shall be inserted with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, namely:—

Amendment
of section
28F

43 of 1961.

(2A) Notwithstanding anything contained in sub-sections (1) and (2), or any other law for the time being in force, the Central Government may, by notification in the Official Gazette, authorise an Authority constituted under section 245-O of the Income-tax Act, 1961, to act as an Authority under this Chapter.

(2B) On and from the date of publication of notification under sub-section (2A), the Authority constituted under sub-section (1) shall not exercise jurisdiction under this Chapter.

43 of 1961.

(2C) For the purposes of sub-section (2A), the reference to "an officer of the Indian Revenue Service who is qualified to be a Member of Central Board of Direct Taxes" in clause (b) of sub-section (2) of section 245-O of the Income-tax Act, 1961 shall be construed as reference to "an officer of the Indian Customs and Central Excise Service who is qualified to be a Member of the Board".

(2D) On and from the date of the authorisation of Authority under sub-section (2A), every application and proceeding pending before the Authority constituted under sub-section (1) shall stand transferred to the Authority so authorised from the stage at which such proceedings stood before the date of such authorisation.'

87. In section 130 of the Customs Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

Amendment
of section
130.

"(2A) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period."

88. In section 130A of the Customs Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1999, namely:—

Amendment
of section
130A.

"(3A) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period."

89. In section 137 of the Customs Act, in sub-section (3),—

Amendment
of section
137.

(i) for the words "such compounding amount", the words "such compounding amount and in such manner of compounding" shall be substituted;

(ii) the following proviso shall be inserted, namely:—

"Provided that nothing contained in this sub-section shall apply to—

(a) a person who has been allowed to compound once in respect of any offence under sections 135 and 135A;

(b) a person who has been accused of committing an offence under this Act which is also an offence under any of the following Acts, namely:—

(i) the Narcotic Drugs and Psychotropic Substances Act, 1985;

61 of 1985.

- (ii) the Chemical Weapons Convention Act, 2000; 34 of 2000.
 (iii) the Arms Act, 1959; 54 of 1959.
 (iv) the Wild Life (Protection) Act, 1972; 53 of 1972.

(c) a person involved in smuggling of goods falling under any of the following, namely:—

(i) goods specified in the list of Special Chemicals, Organisms, Materials, Equipment and Technology in Appendix 3 to Schedule 2 (Export Policy) of ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992; 22 of 1992.

(ii) goods which are specified as prohibited items for import and export in the ITC (HS) Classification of Export and Import Items of the Foreign Trade Policy, as amended from time to time, issued under section 5 of the Foreign Trade (Development and Regulation) Act, 1992; 22 of 1992.

(iii) any other goods or documents, which are likely to affect friendly relations with a foreign State or are derogatory to national honour;

(d) a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;

(e) a person who has been convicted under this Act on or after the 30th day of December, 2005.”

Amendment
of section
156.

90. In section 156 of the Customs Act, in sub-section (2), in clause (h), for the words “for compounding”, the words “for compounding and the manner of compounding” shall be substituted.

Amendment
of section
157.

91. In section 157 of the Customs Act, in sub-section (2), after clause (a), the following clauses shall be inserted, namely:—

“(ai) the manner of export of goods, relinquishment of title to the goods and abandoning them to customs and destruction or rendering of goods commercially valueless in the presence of the proper officer under clause (d) of sub-section (1) of section 26A;

(aia) the form and manner of making application for refund of duty under sub-section (2) of section 26A;”

Validation of
certain actions
taken by
officers of
customs
appointed
under section
4.

92. (1) The notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 27/2009-CUSTOMS (N.T.), published in the Official Gazette, vide, number G.S.R. 173(E), dated the 17th March, 2009, issued for the purpose of appointment of officers of customs under sub-section (1) of section 4 read with sub-section (1) of section 5 of the Customs Act, shall be deemed to be, and to have always been, for all purposes, in force retrospectively on and from the 9th day of May, 2000 and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done by officers of customs appointed by the said notification to discharge duties as an officer of customs on and from the 9th day of May, 2000 to the 16th day of March, 2009, shall, for all purposes, be deemed to be, and to have always been, validly taken or done as if the appointment so made with respect to the area of jurisdiction specified in the said notification was in force at all material times;

(b) no suit or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority against the Central Government or officers of customs appointed by the said notification for any action taken or anything done in good faith during the discharge of his duties as an officer of customs during the period on and from the 9th day of May, 2000 to the 16th day of March, 2009, as if the appointment made with respect to the area of jurisdiction specified in the said notification was in force at all material times;

(c) recovery made of any amount of duty or interest or penalty or fine or other charges by or under the order or direction of officers of customs appointed by the said notification during the period on and from the 9th day of May, 2000 to the 16th day of March, 2009 shall be deemed to be valid, and to have always been, for all purposes, as validly and effectively made as if the appointment made with respect to area of jurisdiction specified in the said notification was in force at all material times.

(2) For the purposes of sub-section (1), the Central Board of Excise and Customs shall have and shall be deemed to have always had the power to bring into force the said notification with retrospective effect as if the Central Board of Excise and Customs had the power to bring into force the said notification under sub-section (1) of section 4 read with sub-section (1) of section 5 of the Customs Act, retrospectively, at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the said notification had not come into force retrospectively.

93. (1) The notification of the Government of India, in the Ministry of Finance (Department of Revenue) number G.S.R. 260(E), dated the 1st May, 2006, issued under sub-section (1) of section 25 of the Customs Act shall stand amended and shall be deemed to have been amended in the manner as specified in column (3) of the Second Schedule, on and from the corresponding date mentioned in column (4) of that Schedule, retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the notification as amended by this sub-section had been in force at all material times.

Amendment
of notification
issued under
section 25 of
the Customs
Act.

(2) For the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under sub-section (1) of section 25 of the Customs Act, retrospectively, at all material times.

(3) Recovery shall be made of the amount which has not been paid but which would have been paid as if the amendment made by sub-section (1) had been in force at all material times from the day on which the Finance (No. 2) Bill, 2009 receives the assent of the President.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Customs tariff

51 of 1975.

94. In section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

Amendment
of section 3.

“Provided further that in the case of an article imported into India, where the Central Government has fixed a tariff value for the like article produced or manufactured in India under sub-section (2) of section 3 of the Central Excise Act, 1944, the value of the imported article shall be deemed to be such tariff value.”

1 of 1944.

Amendment
of section 8B.

95. In section 8B of the Customs Tariff Act, after sub-section (4), the following sub-section shall be inserted and shall be deemed to have been inserted on and from the 14th day of May, 1997, namely:—

“(4A) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.” 52 of 1962.

Validation of
certain actions
taken under
section 8B of
Act 51 of
1975.

96. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 14th day of May, 1997 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8B of the Customs Tariff Act by section 95 of Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Amendment
of section 8C.

97. In section 8C of the Customs Tariff Act, after sub-section (5), the following sub-section shall be inserted and shall be deemed to have been inserted on and from the 11th day of May, 2002, namely:—

“(5A) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.” 52 of 1962.

Validation of
certain actions
taken under
section 8C of
Act 51 of
1975.

98. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 11th day of May, 2002 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 8C of

the Customs Tariff Act by section 97 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

99. In section 9 of the Customs Tariff Act, for sub-section (7A), the following sub-section shall be substituted and shall be deemed to have been substituted on and from the 1st day of January, 1995, namely:—

Amendment
of section 9.

52 of 1962.

“(7A) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.”

100. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 1st day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9 of the Customs Tariff Act by section 99 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation of
certain actions
taken under
section 9 of
Act 51 of
1975.

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Amendment
of section 9A.

101. In section 9A of the Customs Tariff Act,—

(i) in sub-section (1), for the words “any article is exported”, the words “any article is exported by an exporter or producer” shall be substituted;

(ii) after sub-section (6), the following sub-section shall be inserted, namely:—

“(6A) The margin of dumping in relation to an article, exported by an exporter or producer, under inquiry under sub-section (6) shall be determined on the basis of records concerning normal value and export price maintained, and information provided, by such exporter or producer:

Provided that where an exporter or producer fails to provide such records or information, the margin of dumping for such exporter or producer shall be determined on the basis of facts available.”;

(iii) for sub-section (8), the following sub-section shall be substituted and shall always be deemed to have been substituted on and from the 1st day of January, 1995, namely:—

“(8) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to the date for determination of rate of duty, assessment, non-levy, short levy, refunds, interest, appeals, offences and penalties shall, as far as may be, apply to the duty chargeable under this section as they apply in relation to duties leviable under that Act.”.

52 of 1962.

Validation of
certain actions
taken under
section 9A of
Act 51 of
1975.

102. Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under any rule, regulation, notification or order made or issued under the Customs Act, or any notification or order issued under such rule or regulation at any time during the period commencing on and from the 1st day of January, 1995 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in section 9A of the Customs Tariff Act by clause (iii) of section 101 of the Finance (No. 2) Act, 2009 had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods, under any such rule, regulation, notification or order, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods, under any such rule, regulation, notification or order, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by the said section had been in force at all material times;

(c) recovery shall be made of all such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendment made by the said section had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

103. The First Schedule to the Customs Tariff Act shall be amended in the manner as specified in the Third Schedule.

Amendment
of First
Schedule.

Excise

1 of 1944.

104. In section 9A of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), in sub-section (2),—

Amendment
of section 9A.

(i) for the words “such compounding amount”, the words “such compounding amount and in such manner of compounding” shall be substituted;

(ii) the following proviso shall be inserted, namely:—

“Provided that nothing contained in this sub-section shall apply to—

(a) a person who has been allowed to compound once in respect of any of the offences under the provisions of clause (a), (b), (bb), (bbb), (bbbb) or (c) of sub-section (1) of section 9;

61 of 1985.

(b) a person who has been accused of committing an offence under this Act which is also an offence under the Narcotic Drugs and Psychotropic Substances Act, 1985;

(c) a person who has been allowed to compound once in respect of any offence under this Chapter for goods of value exceeding rupees one crore;

(d) a person who has been convicted by the court under this Act on or after the 30th day of December, 2005.”

105. In section 14A of the Central Excise Act,—

Amendment
of section
14A.

(i) in sub-sections (1) and (2), for the words “cost accountant”, the words “cost accountant or chartered accountant” shall be substituted;

(ii) the *Explanation* shall be renumbered as *Explanation 1* thereof, and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—For the purposes of this section, “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949.’

38 of 1949.

106. In section 14AA of the Central Excise Act,—

Amendment
of section
14AA.

(i) in sub-sections (1) and (2), for the words “cost accountant”, the words “cost accountant or chartered accountant” shall be substituted;

(ii) the *Explanation* shall be renumbered as *Explanation 1* thereof, and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

‘*Explanation 2.*—For the purposes of this section, “chartered accountant” shall have the meaning assigned to it in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949.’

38 of 1949.

Amendment
of section
23A.

107. In section 23A of the Central Excise Act, for clause (e), the following clause shall be substituted, namely:—

“(e) “Authority” means the Authority for Advance Rulings, constituted under sub-section (1), or authorised by the Central Government under sub-section (2A), of section 28F of the Customs Act, 1962.”

52 of 1962.

Amendment
of section
35G.

108. In section 35G of the Central Excise Act, after sub-section (2), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 2003, namely:—

“(2A) The High Court may admit an appeal after the expiry of the period of one hundred and eighty days referred to in clause (a) of sub-section (2), if it is satisfied that there was sufficient cause for not filing the same within that period.”

Amendment
of section
35H.

109. In section 35H of the Central Excise Act, after sub-section (3), the following sub-section shall be inserted and shall be deemed to have been inserted with effect from the 1st day of July, 1999, namely:—

“(3A) The High Court may admit an application or permit the filing of a memorandum of cross-objections after the expiry of the relevant period referred to in sub-section (1) or sub-section (3), if it is satisfied that there was sufficient cause for not filing the same within that period.”

Amendment
of section 37.

110. In section 37 of the Central Excise Act, in sub-section (2), in clause (id), for the words “for compounding”, the words “for compounding and the manner of compounding” shall be substituted.

Amendment
of
notifications
issued under
section 37 of
Central Excise
Act and
validation of
certain actions
taken.

111. (1) The notifications of the Government of India, in the Ministry of Finance (Department of Revenue) numbers G.S.R. 448(E), dated the 1st August, 1997, G.S.R. 503(E), dated the 30th August, 1997 and G.S.R. 130(E), dated the 10th March, 1998, issued under section 37 of the Central Excise Act, shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified against each of them in column (3) of the Fourth Schedule, on and from the corresponding date mentioned in column (4) of that Schedule and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(2) Notwithstanding the omission of section 3A of the Central Excise Act by section 121 of the Finance Act, 2001 and the expiration of the notifications referred to in sub-section (1), for the purposes of sub-section (1), the Central Government shall have and shall be deemed to have the power to make rules and issue or amend notifications under section 3A read with section 37 of the Central Excise Act, retrospectively, at all material times. 14 of 2001.

(3) Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under the notifications referred to in sub-section (1) at any time during the period commencing on or from the 1st day of August, 1997 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendments made by sub-section (1) had been in force at all material times and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

(a) any action taken or anything done or omitted to be done, during the said period in respect of any goods under the said notifications, shall be deemed to be and shall be deemed always to have been, as validly taken or done or omitted to be done as if the amendments made by sub-section (1) had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made by sub-section (1) had been in force at all material times;

(c) recovery shall be made of such amounts of duty or interest or penalty or fine or other charges which have not been collected or, as the case may be, which have been refunded, as if the amendments made by sub-section (1) had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Excise tariff

112. The First Schedule to the Central Excise Tariff Act, 1985 shall be amended in the manner as specified in the Fifth Schedule.

Amendment
of First
Schedule to
Act 5 of
1986.

CHAPTER V

Service tax

113. In the Finance Act, 1994,—

Amendment
of Act 32 of
1994.

(A) in section 65, save as otherwise provided, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint,—

(1) in clause (19),—

1 of 1944.

(a) for the portion beginning with the words “but does not include” and ending with the words and figures “Central Excise Act, 1944”, the words “but does not include any activity that amounts to manufacture of excisable goods” shall be substituted;

(b) in the *Explanation*, after clause (a), the following clauses shall be inserted, namely:—

1 of 1944.

“(b) “excisable goods” has the meaning assigned to it in clause (d) of section 2 of the Central Excise Act, 1944;

1 of 1944.

(c) “manufacture” has the meaning assigned to it in clause (f) of section 2 of the Central Excise Act, 1944;”;

(2) in clause (101), the words “or sub-broker, as the case may be,” shall be omitted;

(3) in clause (105),—

(a) for sub-clause (zzzp), the following sub-clause shall be substituted, namely:—

“(zzzp) to any person, by any other person, in relation to transport of goods by rail, in any manner;”;

(b) in sub-clause (zzzze), in items (v) and (vi), for the word “acquiring”, the word “providing” shall be substituted and shall be deemed to have been substituted with effect from the 16th day of May, 2008;

(c) after sub-clause (zzzzj), the following sub-clauses shall be inserted, namely:—

“(zzzzk) to any person, by any other person, in relation to cosmetic surgery or plastic surgery, but does not include any surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma;

(zzzzl) to any person, by any other person, in relation to transport of —

- (i) coastal goods;
- (ii) goods through national waterway; or
- (iii) goods through inland water.

Explanation.—For the purposes of this sub-clause,—

(a) “coastal goods” has the meaning assigned to it in clause (7) of section 2 of the Customs Act, 1962; 52 of 1962.

(b) “national waterway” has the meaning assigned to it in clause (h) of section 2 of the Inland Waterways Authority of India Act, 1985; 82 of 1985.

(c) “inland water” has the meaning assigned to it in clause (b) of section 2 of the Inland Vessels Act, 1917; 1 of 1917.

(zzzzm) to a business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law, in any manner:

Provided that any service provided by way of appearance before any court, tribunal or authority shall not amount to taxable service.

Explanation.—For the purposes of this sub-clause, “business entity” includes an association of persons, body of individuals, company or firm, but does not include an individual;”;

(B) in section 66, with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, for the word, brackets and letters “and (zzzzj)”, the brackets, letters and word “, (zzzzj), (zzzzk), (zzzzl) and (zzzzm)” shall be substituted;

(C) for section 84, the following section shall be substituted, namely:—

“84. (1) The Commissioner of Central Excise may, of his own motion, call for and examine the record of any proceedings in which an adjudicating authority subordinate to him has passed any decision or order under this Chapter for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may, by order, direct such authority or any Central Excise Officer subordinate to him to apply to the Commissioner of Central Excise (Appeals) for the determination of such points arising out of the decision or order as may be specified by the Commissioner of Central Excise in his order.

(2) Every order under sub-section (1) shall be made within a period of three months from the date of communication of the decision or order of the adjudicating authority.

(3) Where in pursuance of an order under sub-section (1), the adjudicating authority or any other officer authorised in this behalf makes an application to the Commissioner of Central Excise (Appeals) within a period of one month from the date of communication of the order under sub-section (1) to the adjudicating authority, such application shall be heard by the Commissioner of Central Excise (Appeals), as if such application were an appeal made against the decision or order of the adjudicating authority and the provisions of this Chapter regarding appeals shall apply to such application.

Explanation.—For the removal of doubts, it is hereby declared that any order passed by an adjudicating officer subordinate to the Commissioner of Central Excise immediately before the commencement of clause (C) of section 113 of the Finance (No. 2) Act, 2009, shall continue to be dealt with by the Commissioner of Central Excise as if this section had not been substituted.”;

(D) in section 86, in sub-sections (1) and (2), the words and figures “or section 84” shall be omitted;

(E) in section 94, in sub-section (2), after clause (hh), the following clause shall be inserted, namely:—

“(hhh) the date for determination of rate of service tax and the place of provision of taxable service;”;

(F) in section 95, after sub-section (1E), the following sub-section shall be inserted, namely:—

“(1F) If any difficulty arises in respect of implementing, classifying or assessing the value of any taxable service incorporated in this Chapter by the Finance (No. 2) Act, 2009, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of one year from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President.”;

(G) Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under items (v) and (vi) of sub-clause (zzzze) of clause (105) of section 65 at any time during the period commencing on and from the 16th day of May, 2008 and ending with the day, the Finance (No. 2) Bill, 2009 receives the assent of the President, shall be deemed to be, and to have always been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made by item (b) of sub-clause (3) of clause (A) of section 113 of the Finance (No. 2) Act, 2009 had been in force at all material times and, accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority,—

Validation of action taken under sub-clause (zzzze) of clause (105) of section 65.

(a) any action taken or anything done or omitted to be done for the imposition of service tax during the said period for providing the right to use information technology software for commercial exploitation and also for providing the right to use information technology software supplied electronically, shall be deemed to be, and shall be deemed to always have been, as validly taken or done or omitted to be done as if the said amendment had been in force at all material times;

(b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the imposition of such service tax and no

enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the said amendment had been in force at all material times;

(c) recovery shall be made of all such amounts of service tax, interest or penalty or fine or other charges which may not have been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, as if the said amendment had been in force at all material times.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Validation of exemption given to a person providing specified taxable services to goods transport agency with retrospective effect.

(H) (I) The notification of the Government of India in the Ministry of Finance (Department of Revenue) No. G.S.R. 10(E), dated the 5th January, 2009, issued in exercise of the powers conferred by sub-section (I) of section 93 of the Finance Act, 1994, granting exemption from the whole of service tax leviable under section 66 to any person providing specified taxable services to goods transport agency, shall be deemed to have, and to always have, for all purposes, validly come into force on and from the 1st day of January, 2005, at all material times. 32 of 1994.

(2) Refund shall be made of all such service tax which has been collected but which would not have been so collected as if the notification referred to in sub-section (I) had been in force at all material times.

(3) Notwithstanding anything contained in the Finance Act, 1994, an application for the claim of refund of service tax shall be made within six months from the date on which the Finance (No. 2) Bill, 2009 receives the assent of the President. 32 of 1994.

Explanation.—For the removal of doubts, it is hereby declared that the provisions of section 11B of the Central Excise Act, 1944, shall be applicable in case of refunds under this section. 1 of 1944.

(I) in section 96A, for clause (d), the following clause shall be substituted, namely:—

“(d) “Authority” means the Authority for Advance Rulings, constituted under sub-section (I), or authorised by the Central Government under sub-section (2A), of section 28F of the Customs Act, 1962.” 52 of 1962.

CHAPTER VI

MISCELLANEOUS

Amendment of section 13 of Act 58 of 2002

114. In the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002, in section 13, in sub-section (I), for the words, figures and letters “the 31st day of March, 2009”, the words, figures and letters “the 31st day of March, 2014” shall be substituted.

Amendment of Chapter VII of Finance (No. 2) Act, 2004.

115. In Chapter VII of the Finance (No. 2) Act, 2004, after section 113, the following section shall be inserted with effect from the 1st day of October, 2009, namely:— 23 of 2004.

Chapter VII not to apply in certain cases.

“113A. Notwithstanding anything contained in this Chapter, the provisions of this Chapter shall not apply to taxable securities transactions entered into by any person for, or on behalf of, the New Pension System Trust referred to in clause (44) of section 10 of the Income-tax Act, 1961.” 43 of 1961.

116. After section 121 of the Finance Act, 2008, the following section shall be inserted, namely:—

“121A. Nothing contained in this Chapter shall apply to, or in relation to, the taxable commodities transaction entered on or after the 1st day of April, 2009.”.

Amendment
of Act 18 of
2008.

Provisions of
Chapter VII
not to apply
to taxable
commodities
transaction.

26 of 2009.

117. The Finance Act, 2009 is hereby repealed and shall be deemed never to have been enacted.

Repeal.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,50,000 | Nil; |
| (2) where the total income exceeds Rs. 1,50,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,50,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 15,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 55,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 1,80,000 | Nil; |
| (2) where the total income exceeds Rs. 1,80,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,80,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 12,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 52,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 2,25,000 | Nil; |
| (2) where the total income exceeds Rs. 2,25,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,25,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 7,500 plus 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 47,500 plus 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall,—

(i) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding ten lakh rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax;

(ii) in the case of every person, other than those mentioned in item (i), be increased by a surcharge, for purposes of the Union, calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (i) above having a total income exceeding ten lakh rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of ten lakh rupees by more than the amount of income that exceeds ten lakh rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

- | | |
|---|---|
| (1) where the total income does not exceed Rs.10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000 | Rs.1,000 plus 20 per cent. of the amount by which the total income exceeds Rs.10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 plus 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income

30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 111A or section 112, shall, in the case of every firm having a total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in the case of every firm having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income

30 per cent.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company

30 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

- (a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or
- (b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government

50 per cent.;

- (ii) on the balance, if any, of the total income 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees, at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART II

RATES FOR DEDUCTION OF TAX AT SOURCE IN CERTAIN CASES

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

Rate of income-tax

1. In the case of a person other than a company—

(a) where the person is resident in India—

(i) on income by way of interest other than "Interest on securities" 10 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(iii) on income by way of winnings from horse races 30 per cent.;

(iv) on income by way of insurance commission 10 per cent.;

(v) on income by way of interest payable on— 10 per cent.;

(A) any debentures or securities for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;

(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder;

(C) any security of the Central or State Government

(vi) on any other income 10 per cent.;

(b) where the person is not resident in India—

(i) in the case of a non-resident Indian—

(A) on any investment income 20 per cent.;

(B) on income by way of long-term capital gains referred to in section 115E 10 per cent.;

(C) on income by way of short-term capital gains referred to in section 111A 15 per cent.;

(D) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;

(E) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;

Rate of income-tax

(F) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(G) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(i)(F)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(H) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(I) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(J) on income by way of winnings from horse races 30 per cent.;

(K) on the whole of the other income 30 per cent.;

(ii) in the case of any other person—

(A) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;

(B) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

Rate of income-tax

(C) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(ii)(B)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(D) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(I) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005 20 per cent.;

(II) where the agreement is made on or after the 1st day of June, 2005 10 per cent.;

(E) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(F) on income by way of winnings from horse races 30 per cent.;

(G) on income by way of short-term capital gains referred to in section 111A 15 per cent.;

(H) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10] 20 per cent.;

(I) on the whole of the other income 30 per cent.;

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities" 10 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(iii) on income by way of winnings from horse races 30 per cent.;

(iv) on any other income 10 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort 30 per cent.;

(ii) on income by way of winnings from horse races 30 per cent.;

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency 20 per cent.;

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976 where such royalty is in consideration for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

	<i>Rate of income-tax</i>
(A) where the agreement is made before the 1st day of June, 1997	30 per cent.;
(B) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(C) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (b)(iv)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—	
(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997 but before the 1st day of June, 2005	20 per cent.;
(D) where the agreement is made on or after the 1st day of June, 2005	10 per cent.;
(vii) on income by way of short-term capital gains referred to in section 111A	15 per cent.;
(viii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33), (36) and (38) of section 10]	20 per cent.;
(ix) on any other income	40 per cent.

Explanation.—For the purpose of item 1(b)(i) of this Part, “investment income” and “non-resident Indian” shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of item 2(b) of this Part, shall be increased by a surcharge, for purposes of the Union, in the case of every company other than a domestic company, calculated at the rate of two and one-half per cent. of such income-tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

PART III

RATES FOR CHARGING INCOME-TAX IN CERTAIN CASES, DEDUCTING INCOME-TAX FROM INCOME CHARGEABLE UNDER THE HEAD “SALARIES” AND COMPUTING “ADVANCE TAX”

In cases in which income-tax has to be charged under sub-section (4) of section 172 of the Income-tax Act or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the said Act or deducted from,

or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or income chargeable to tax under section 115JB or sub-section (1A) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge, wherever applicable, on such "advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115BBC or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

(I) In the case of every individual other than the individual referred to in items (II) and (III) of this Paragraph or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 1,60,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 1,60,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,60,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 14,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 54,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(II) In the case of every individual, being a woman resident in India, and below the age of sixty-five years at any time during the previous year,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 1,90,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 1,90,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 1,90,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 11,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 51,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

(III) In the case of every individual, being a resident in India, who is of the age of sixty-five years or more at any time during the previous year,—

Rates of income-tax

- | | |
|--|---|
| (1) where the total income does not exceed Rs. 2,40,000 | <i>Nil</i> ; |
| (2) where the total income exceeds Rs. 2,40,000 but does not exceed Rs. 3,00,000 | 10 per cent. of the amount by which the total income exceeds Rs. 2,40,000; |
| (3) where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000 | Rs. 6,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 3,00,000; |
| (4) where the total income exceeds Rs. 5,00,000 | Rs. 46,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 5,00,000. |

Paragraph B

In the case of every co-operative society, —

Rates of income-tax

- | | |
|--|--|
| (1) where the total income does not exceed Rs. 10,000 | 10 per cent. of the total income; |
| (2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000 | Rs. 1,000 <i>plus</i> 20 per cent. of the amount by which the total income exceeds Rs. 10,000; |
| (3) where the total income exceeds Rs. 20,000 | Rs. 3,000 <i>plus</i> 30 per cent. of the amount by which the total income exceeds Rs. 20,000. |

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income	30 per cent.
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Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income	30 per cent.
----------------------------------	--------------

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company	30 per cent. of the total income;
--------------------------------------	-----------------------------------

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
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(ii) on the balance, if any, of the total income	40 per cent.
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Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 111A or section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated,—

(i) in the case of every domestic company having a total income exceeding one crore rupees, at the rate of ten per cent. of such income-tax;

(ii) in the case of every company other than a domestic company having a total income exceeding one crore rupees at the rate of two and one-half per cent.:

Provided that in the case of every company having a total income exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

PART IV

[See section 2(12)(c)]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (a) of clause (1A) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (2) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (3) and (4) of section 40A.

Rule 2.—Agricultural income of the nature referred to in sub-clause (b) or sub-clause (c) of clause (1A) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (3) and (4) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in sub-clause (c) of clause (1A) of section 2 of the Income-tax Act, being income derived from any building required as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (c) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(a) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of such income shall be regarded as the agricultural income of the assessee;

(b) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe or flat bark crepe) or technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(c) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent., as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that where the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducted in computing the agricultural income.

Rule 8.—(1) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2009, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2001 or the

1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008, is a loss, then, for the purposes of sub-section (2) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2009.

(2) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2010, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 2002 or the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009, is a loss, then, for the purposes of sub-section (10) of section 2 of this Act,—

(i) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003 or the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(ii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2004 or the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2004, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2005 or the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(iv) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2005, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2006 or the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(v) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2006, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2007 or the 1st day of April, 2008 or the 1st day of April, 2009,

(vi) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2007, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2008 or the 1st day of April, 2009,

(vii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2008, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

(viii) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2009,

shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2010.

(3) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (1) or sub-rule (2) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule (1) or, as the case may be, sub-rule (2).

(4) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), or of the First Schedule to the Finance Act, 2003 (32 of 2003), or of the First Schedule to the Finance (No. 2) Act, 2004 (23 of 2004) or of the First Schedule to the Finance Act, 2005 (18 of 2005), or of the First Schedule to the Finance Act, 2006 (21 of 2006) or of the First Schedule to the Finance Act, 2007 (22 of 2007) or of the First Schedule to the Finance Act, 2008 (18 of 2008) shall be set off under sub-rule (1) or, as the case may be, sub-rule (2).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

(See section 93)

Sl. No.	Notification number and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 260(E), dated the 1st May, 2006, 40/2006-Customs, dated the 1st May, 2006.	<p>In the said notification, in the opening paragraph, —</p> <p>“(i) after condition (iii), the following condition shall be inserted, namely:—</p> <p>“(iia) that in respect of imports made after the discharge of export obligation in full, if facility under rule 18 (rebate of duty paid on materials used in the manufacture of resultant product) or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or CENVAT Credit under CENVAT Credit Rules, 2004 has been availed, then the importer shall use the imported materials for the manufacture of dutiable goods in his factory or in the factory of his supporting manufacturer and shall submit a certificate from the jurisdictional Central Excise Officer that the imported materials have been so used:</p> <p>Provided that, in case,—</p> <p>(a) materials are imported against an authorisation transferred by the Regional Authority, or</p> <p>(b) the imported materials are transferred with the permission of Regional Authority,</p> <p>then the importer shall pay an amount equal to the additional duty of customs leviable on the materials so imported or transferred, but for the exemption contained herein, together with interest at the rate of fifteen per cent. per annum from the date of clearance of the said materials:</p> <p>Provided further that no such amount shall be payable in respect of authorisation issued from the 1st day of May, 2006 to the 31st day of March, 2007.”;</p> <p>(ii) in condition (iia), after the second proviso, the following proviso shall be inserted, namely:—</p> <p>“Provided also that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2004.”;</p> <p>(iii) for condition (v), the following condition shall be substituted, namely:—</p> <p>“(v) that the export obligation as specified in the said authorisation (both in value and quantity terms) is discharged within the period specified in the said authorisation or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorisation:</p> <p>Provided that an Advance Intermediate authorisation holder shall discharge export obligation by supplying the resultant products to the exporter in terms of paragraph 4.1.3 (ii) of the Foreign Trade Policy.”;</p> <p>(iv) in the <i>Explanation</i>, after clause (iv), the following clause shall be inserted, namely:—</p> <p>“(v) “dutiable goods” means excisable goods which are not exempt from central excise duty and which are not chargeable to “nil” rate of central excise duty.”.</p>	<p>1st May, 2006.</p> <p>19th February, 2009.</p> <p>1st May, 2006 to 18th February, 2009.</p> <p>1st May, 2006 to 18th February, 2009.</p>

THE THIRD SCHEDULE

(See section 103)

In the First Schedule to the Customs Tariff Act, in SECTION XI, in Note 2, for para (4), the following shall be substituted, namely:—

“(4) Goods classifiable in Chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over any other single textile material.

When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.”.

THE FOURTH SCHEDULE

(See section 111)

Sl. No.	Notification number and date	Amendment	Date of effect of amendment
1	2	3	4
1.	G.S.R. 448(E), dated the 1st August, 1997 [33/1997-Central Excise (N.T.), dated the 1st August, 1997].	In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted.	1st August, 1997.
2.	G.S.R. 503(E), dated the 30th August, 1997 [44/1997-Central Excise (N.T.), dated the 30th August, 1997].	In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted.	30th August, 1997.
3.	G.S.R. 130(E), dated the 10th March, 1998 [7/1998-Central Excise (N.T.), dated the 10th March, 1998].	In the said notification, in the preamble, for the words and figures "powers conferred by section 37", the words, figures and letter "powers conferred by section 3A read with section 37" shall be substituted.	10th March, 1998.

THE FIFTH SCHEDULE

(See section 112)

In the First Schedule to the Central Excise Tariff Act,—

(1) in Chapter 8, for NOTE 1, the following NOTE shall be substituted, namely:—

1. This Chapter does not cover :

(a) inedible nuts or fruits; or

(b) betel nut product known as "Supari" of tariff item 2106 90 30;.

(2) in Chapter 21, after NOTE 5, the following NOTE shall be inserted, namely:—

6. In relation to product of tariff item 2106 90 30; the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients other than lime, *katha* (catechu) or tobacco to betel nut, in any form, shall amount to "manufacture".;

(3) in Chapter 58, against tariff item 5801 22 10, —

(i) in column (3), the entry "m" shall be inserted;

(ii) in column (4), the entry "8%" shall be inserted.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.

Extra No. 3



REGISTERED No. G/GNR/2



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The Gujarat Government Gazette

EXTRAORDINARY

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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th May, 2010.

No. RPB/6-2010/Act-34-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 27th August, 2009. Bhadrapad 5, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 26th August, 2009, is hereby published for general information :-

THE METRO RAILWAYS (AMENDMENT) ACT, 2009

(Act No. 34 of 2009)

An
Act

[26th August, 2009]

Further to amend the Metro Railways (Construction of Works) Act, 1978 and to amend the Delhi Metro Railway (Operation and Maintenance) Act, 2002.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Metro Railways (Amendment) Act, 2009.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title
and
commence
ment.

CHAPTER II

AMENDMENT TO THE METRO RAILWAYS (CONSTRUCTION OF WORKS) ACT, 1978

Amendment of
section 1.

2. In the Metro Railways (Construction of Works) Act, 1978 (hereafter in this Chapter referred to as the Metro Railways Act), in section 1, in sub-section (3), for the portion beginning with the words "such other metropolitan city" and ending with the words "to that city accordingly", the following shall be substituted, namely:—

33 of 1978.

"the National Capital Region, such other metropolitan city and metropolitan area, after consultation with the State Government, and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to the National Capital Region, such metropolitan city or metropolitan area accordingly."

Substitution of
words
"metropolitan
city" by words
"metropolitan
city,
metropolitan
area and
National
Capital
Region".

3. In the Metro Railways Act, for the words "metropolitan city" occurring in clause (h) of sub-section (1) of section 2, clause (c) of sub-section (1) of section 4 and clause (a) of sub-section (1) of section 32, the words "metropolitan city, metropolitan area and the National Capital Region" shall be substituted.

Amendment of
section 2.

4. In section 2 of the Metro Railways Act, in sub-section (1),—

(i) after clause (h), the following clause shall be inserted, namely:—

"(ha) "metropolitan area" shall have the meaning assigned to it in clause (c) of article 243P of the Constitution;"

(ii) after clause (o), the following clause shall be inserted, namely:—

"(oa) "National Capital Region" means the National Capital Region as defined in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985;"

2 of 1985.

CHAPTER III

AMENDMENT TO THE DELHI METRO RAILWAY (OPERATION AND MAINTENANCE) ACT, 2002

Substitution of
references to
"metropolitan
city of Delhi"
by references
to "National
Capital Region
and any other
metropolitan
area".

5. Throughout the Delhi Metro Railway (Operation and Maintenance) Act, 2002 (hereafter in this Chapter referred to as the Delhi Metro Railway Act), for the words "metropolitan city of Delhi" wherever they occur, the words "the National Capital Region, metropolitan city and metropolitan area" shall be substituted.

60 of 2002.

Amendment of
section 1.

6. In section 1 of the Delhi Metro Railway Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) This Act may be called the Metro Railways (Operation and Maintenance) Act, 2002.

(2) It extends in the first instance to the National Capital Region and the Central Government may, by notification, after consultation with the State Government, extend this Act to such other metropolitan area and metropolitan city, except the metropolitan

city of Calcutta, and with effect from such date as may be specified in that notification and thereupon the provisions of this Act shall apply to that metropolitan area or metropolitan city accordingly."

7. In section 2 of the Delhi Metro Railway Act, in sub-section (1),—

Amendment of section 2.

(i) for clause (a), the following clauses shall be substituted, namely:—

'(a) "Central Government", in relation to technical planning and safety of metro railways, means the Ministry of the Government of India dealing with Railways;

(aa) "Claims Commissioner" means a Claims Commissioner appointed under section 48;";

(ii) for clause (h), the following clauses shall be substituted, namely:—

'(h) "metropolitan area" shall have the meaning assigned to it in clause (c) of article 243P of the Constitution;

(ha) "metropolitan city" means the metropolitan city of Bombay, Calcutta, Delhi or Madras;";

(iii) after clause (k), the following clause shall be inserted, namely:—

'(ka) "National Capital Region" means the National Capital Region as defined in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985;".

2 of 1985.

8. In section 6 of the Delhi Metro Railway Act, in sub-section (2), after clause (b), the following clauses shall be inserted, namely:—

Amendment of section 6.

"(ba) develop any metro railway land for commercial use;

(bb) provide for carriage of passengers by integrated transport services or any other mode of transport;".

9. Section 7 of the Delhi Metro Railway Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

Amendment of section 7.

"(2) The Commissioner shall function under the administrative control of the Chief Commissioner of Railway Safety appointed under section 5 of the Railways Act, 1989."

24 of 1989.

10. For section 12 of the Delhi Metro Railway Act, the following section shall be substituted, namely:—

Substitution of new section for section 12.

"12. The Chief Commissioner of Railway Safety shall, for each financial year, prepare in such form, and within such time, as may be prescribed, an annual report giving a full account of the activities of the Commissioners during the financial year immediately preceding the financial year in which such report is prepared and forward copies thereof to the Central Government."

Annual report.

11. In section 13 of the Delhi Metro Railway Act, for the word "Commissioner", the words "Chief Commissioner of Railway Safety" shall be substituted.

Amendment of section 13.

12. In section 23 of the Delhi Metro Railway Act, in sub-section (1), for the words "Hindi and English", the words "Hindi, English and official language of the State in which such station is located" shall be substituted.

Amendment of section 23.

13. In section 26 of the Delhi Metro Railway Act, in sub-section (1), the words "a small" shall be omitted.

Amendment of section 26.

Amendment of
section 34.

14. In section 34 of the Delhi Metro Railway Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Central Government and the State Government shall nominate one member each to the Fare Fixation Committee:

Amendment of
section 38.

Provided that a person who is or has been an Additional Secretary to the Government of India or holds or has held an equivalent post in the Central Government or the State Government shall be qualified to be nominated as a member.”

Amendment of
section 85.

15. In section 38 of the Delhi Metro Railway Act, in sub-section (2), for the words “Government of the National Capital Territory of Delhi”, the words “State Government” shall be substituted.

16. In section 85 of the Delhi Metro Railway Act,—

(i) in sub-section (1), for the words “Government of the National Capital Territory of Delhi”, the words “State Government” shall be substituted;

(ii) in sub-section (2), for the words “Government of the National Capital Territory of Delhi in the Delhi Gazette”, the words “State Government” shall be substituted.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.



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PART - VI

Acts of Parliament and Ordinances promulgated by the President.

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 10th May, 2010.

No. RPB/7-2010/Act-35-09/E:- The following Act of Parliament is republished for general information :-

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
Legislative Department

New Delhi, the 27th August, 2009. Bhadrapad 5, 1930 (Sake)

The following Act of Parliament has received the assent of the President on the 26th August, 2009, is hereby published for general information :-

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

An

Act

(Act No. 35 of 2009)

[26th August, 2009]

to provide for free compulsory education to all children of the age of six to fourteen years.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:-

CHAPTER 1

PRELIMINARY

1. (1) This Act may be called the Right of Children to Free and Compulsory Education Act, 2009.

Short title
extend and
commencement.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,-

Definitions.

(a) "appropriate Government" means-

(i) in relation to as a school established, owned or controlled by the Central Government, or the administrator of the Union territory, having no legislature, the Central Government;

(ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of—

(A) a State, the State Government;

(B) a Union territory having legislature, the Government of that Union territory;

(b) "capitation fee" means any kind of donation or contribution or payment other than the fee notified by the school;

(c) "child" means a male or female child of the age of six to fourteen years;

(d) "child belonging to disadvantaged group" means a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification;

(e) "child belonging to weaker section" means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification;

(f) "elementary education" means the education from first class to eighth class;

(g) "guardian", in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;

(h) "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village;

(i) "National Commission for Protection of Child Rights" means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005;

4 of 2006.

(j) "notification" means a notification published in the Official Gazette;

(k) "parent" means either the natural or step or adoptive father or mother of a child;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "Schedule" means the Schedule annexed to this Act;

(n) "school" means any recognised school imparting elementary education and includes—

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;

(o) "screening procedure" means the method of selection for admission of a child, in preference over another, other than a random method;

(p) "specified category", in relation to a school, means a school known as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government;

(q) "State Commission for Protection of Child Rights" means the State Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005.

4 of 2006.

CHAPTER II

RIGHT TO FREE AND COMPULSORY EDUCATION

3. (1) Every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.

Right of child to free and compulsory education.

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education:

Provided that a child suffering from disability, as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1996, shall have the right to pursue free and compulsory elementary education in accordance with the provisions of Chapter V of the said Act.

1 of 1996.

4. Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education; then, he or she shall be admitted in a class appropriate to his or her age:

Special provisions for children not admitted to, or who have not completed, elementary education.

Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed:

Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.

5. (1) Where in a school, there is no provision for completion of elementary education, a child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.

Right of transfer to other school.

(2) Where a child is required to move from one school to another, either within a State or outside, for any reason whatsoever, such child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.

(3) For seeking admission in such other school, the Head-teacher or in-charge of the school where such child was last admitted, shall immediately issue the transfer certificate:

Provided that delay in producing transfer certificate shall not be a ground for either delaying or denying admission in such other school:

Provided further that the Head-teacher or in-charge of the school delaying issuance of transfer certificate shall be liable for disciplinary action under the service rules applicable to him or her.

CHAPTER III

DUTIES OF APPROPRIATE GOVERNMENT, LOCAL AUTHORITY AND PARENTS

6. For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act.

Duty of appropriate Government and local authority to establish school.

Sharing of
financial and
other
responsibilities.

7. (1) The Central Government and the State Governments shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.

(2) The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.

(3) The Central Government shall provide to the State Governments, as grants-in-aid of revenues, such percentage of expenditure referred to in sub-section (2) as it may determine, from time to time, in consultation with the State Governments.

(4) The Central Government may make a request to the President to make a reference to the Finance Commission under sub-clause (d) of clause (3) of article 280 to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.

(5) Notwithstanding anything contained in sub-section (4), the State Government shall, taking into consideration the sums provided by the Central Government to a State Government under sub-section (3), and its other resources, be responsible to provide funds for implementation of the provisions of the Act.

(6) The Central Government shall—

(a) develop a framework of national curriculum with the help of academic authority specified under section 29;

(b) develop and enforce standards for training of teachers;

(c) provide technical support and resources to the State Government for promoting innovations, researches, planning and capacity building.

8. The appropriate Government shall—

(a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school.

Explanation.—The term "compulsory education" means obligation of the appropriate Government to—

(i) provide free elementary education to every child of the age of six to fourteen years; and

(ii) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years;

(b) ensure availability of a neighbourhood school as specified in section 6;

(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;

(d) provide infrastructure including school building, teaching staff and learning equipment;

(e) provide special training facility specified in section 4;

(f) ensure and monitor admission, attendance and completion of elementary education by every child;

(g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;

Duties of
appropriate
Government.

(h) ensure timely prescribing of curriculum and courses of study for elementary education; and

(i) provide training facility for teachers.

9. Every local authority shall—

Duties of local authority.

(a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school;

(b) ensure availability of a neighbourhood school as specified in section 6;

(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;

(d) maintain records of children up to the age of fourteen years residing within its jurisdiction, in such manner as may be prescribed;

(e) ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction;

(f) provide infrastructure including school building, teaching staff and learning material;

(g) provide special training facility specified in section 4;

(h) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;

(i) ensure timely prescribing of curriculum and courses of study for elementary education;

(j) provide training facility for teachers;

(k) ensure admission of children of migrant families;

(l) monitor functioning of schools within its jurisdiction; and

(m) decide the academic calendar.

10. It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.

Duty of parents and guardian.

11. With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children.

Appropriate Government to provide for pre-school education.

CHAPTER IV

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

12. (1) For the purposes of this Act, a school,—

(a) specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;

(b) specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent.;

(c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent. of the strength of that class, children belonging to weaker section and disadvantaged group in the

Extent of school's responsibility for free and compulsory education.

neighbourhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2:

Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.

(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be.

13. (1) No school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure.

(2) Any school or person, if in contravention of the provisions of sub-section (1),—

(a) receives capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged;

(b) subjects a child to screening procedure, shall be punishable with fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contraventions.

14. (1) For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or on the basis of such other document, as may be prescribed. 6 of 1886.

(2) No child shall be denied admission in a school for lack of age proof.

15. A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed:

Provided that no child shall be denied admission if such admission is sought subsequent to the extended period:

Provided further that any child admitted after the extended period shall complete his studies in such manner as may be prescribed by the appropriate Government.

16. No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

17. (1) No child shall be subjected to physical punishment or mental harassment.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

18. (1) No school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed.

(2) The authority prescribed under sub-section (1) shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed:

No capitation fee and screening procedure for admission.

Proof of age for admission.

No denial of admission.

Prohibition of holding back and expulsion.

Prohibition of physical punishment and mental harassment to child.

No School to be established without obtaining certificate of recognition.

Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.

(3) On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition:

Provided that such order shall contain a direction as to which of the neighbourhood school, the children studying in the derecognised school, shall be admitted:

Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.

(4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.

(5) Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

19. (1) No school shall be established, or recognised, under section 18, unless it fulfils the norms and standards specified in the Schedule.

Norms and standards for school.

(2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within a period of three years from the date of such commencement.

(3) Where a school fails to fulfil the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.

(4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.

(5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

20. The Central Government may, by notification, amend the Schedule by adding to, or omitting therefrom, any norms and standards.

Power to amend Schedule.

21. (1) A school, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teachers:

School Management Committee.

Provided that atleast three-fourth of members of such Committee shall be parents or guardians:

Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section:

Provided also that fifty per cent. of Members of such Committee shall be women.

(2) The School Management Committee shall perform the following functions, namely:—

- (a) monitor the working of the school;
- (b) prepare and recommend school development plan;
- (c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and
- (d) perform such other functions as may be prescribed.

22. (1) Every School Management Committee, constituted under sub-section (1) of section 21, shall prepare a School Development Plan, in such manner as may be prescribed.

School Development Plan.

(2) The School Development Plan so prepared under sub-section (1) shall be the basis for the plans and grants to be made by the appropriate Government or local authority, as the case may be.

Qualifications
for appoint-
ment and
terms and
conditions of
service of
teachers

23. (1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.

(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification:

Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years.

(3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed.

Duties of
teachers and
redressal of
grievances.

24. (1) A teacher appointed under sub-section (1) of section 23 shall perform the following duties, namely:—

(a) maintain regularity and punctuality in attending school;

(b) conduct and complete the curriculum in accordance with the provisions of sub-section (2) of section 29;

(c) complete entire curriculum within the specified time;

(d) assess the learning ability of each child and accordingly supplement additional instructions, if any, as required;

(e) hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child; and

(f) perform such other duties as may be prescribed.

(2) A teacher committing default in performance of duties specified in sub-section (1), shall be liable to disciplinary action under the service rules applicable to him or her:

Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher.

(3) The grievances, if any, of the teacher shall be redressed in such manner as may be prescribed.

Pupil-Teacher
Ratio.

25. (1) Within six months from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.

(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those specified in section 27.

Filling up
vacancies of
teachers.

26. The appointing authority, in relation to a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or by a local authority, shall ensure that vacancy of teacher in a school under its control shall not exceed ten per cent. of the total sanctioned strength.

Prohibition of
deployment of
teachers for
non-educational
purposes.

27. No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be.

Prohibition of
private tuition
by teacher.

28. No teacher shall engage himself or herself in private tuition or private teaching activity.

CHAPTER V

CURRICULUM AND COMPLETION OF ELEMENTARY EDUCATION

Curriculum
and evaluation
procedure.

29. (1) The curriculum and the evaluation procedure for elementary education shall be laid down by an academic authority to be specified by the appropriate Government, by notification.

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:—

- (a) conformity with the values enshrined in the Constitution;
- (b) all round development of the child;
- (c) building up child's knowledge, potentiality and talent;
- (d) development of physical and mental abilities to the fullest extent;
- (e) learning through activities, discovery and exploration in a child friendly and child-centered manner;
- (f) medium of instructions shall, as far as practicable, be in child's mother tongue;
- (g) making the child free of fear, trauma and anxiety and helping the child to express views freely;
- (h) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.

30. (1) No child shall be required to pass any Board examination till completion of elementary education.

Examination
and
completion
certificate.

(2) Every child completing his elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed.

CHAPTER VI

PROTECTION OF RIGHT OF CHILDREN

31. (1) The National Commission for Protection of Child Rights constituted under section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted under section 17, of the Commissions for Protection of Child Rights Act, 2005, shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:—

Monitoring of
child's right to
education.

(a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;

(b) inquire into complaints relating to child's right to free and compulsory education; and

(c) take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Act.

(2) The said Commissions shall, while inquiring into any matters relating to child's right to free and compulsory education under clause (c) of sub-section (1), have the same powers as assigned to them respectively under sections 14 and 24 of the said Commissions for Protection of Child Rights Act.

(3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in clauses (a) to (c) of sub-section (1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.

32. (1) Notwithstanding anything contained in section 31, any person having any grievance relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.

Redressal of
grievances.

(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter within a period of three months after affording a reasonable opportunity of being heard to the parties concerned.

(3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be.

(4) The appeal preferred under sub-section (3) shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be, as provided under clause (c) of sub-section (1) of section 31.

Constitution
of National
Advisory
Council

33. (1) The Central Government shall constitute, by notification, a National Advisory Council, consisting of such number of Members, not exceeding fifteen, as the Central Government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.

(2) The functions of the National Advisory Council shall be to advise the Central Government on implementation of the provisions of the Act in an effective manner.

(3) The allowances and other terms and conditions of the appointment of Members of the National Advisory Council shall be such as may be prescribed.

Constitution of
State Advisory
Council

34. (1) The State Government shall constitute, by notification, a State Advisory Council consisting of such number of Members, not exceeding fifteen, as the State Government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.

(2) The functions of the State Advisory Council shall be to advise the State Government on implementation of the provisions of the Act in an effective manner.

(3) The allowances and other terms and conditions of appointment of Members of the State Advisory Council shall be such as may be prescribed.

CHAPTER VII

MISCELLANEOUS

Power to issue
directions.

35. (1) The Central Government may issue such guidelines to the appropriate Government or, as the case may be, the local authority, as it deems fit for the purposes of implementation of the provisions of this Act.

(2) The appropriate Government may issue guidelines and give such directions, as it deems fit, to the local authority or the School Management Committee regarding implementation of the provisions of this Act.

(3) The local authority may issue guidelines and give such directions, as it deems fit, to the School Management Committee regarding implementation of the provisions of this Act.

Previous
sanction for
prosecution.

36. No prosecution for offences punishable under sub-section (2) of section 13, sub-section (5) of section 18 and sub-section (5) of section 19 shall be instituted except with the previous sanction of an officer authorised in this behalf, by the appropriate Government, by notification.

Protection of
action taken in
good faith

37. No suit or other legal proceeding shall lie against the Central Government, the State Government, the National Commission for Protection of Child Rights, the State Commission for Protection of Child Rights, the local authority, the School Management Committee or any person, in respect of anything which is in good faith done or intended to be done, in pursuance of this Act, or any rules or order made thereunder.

Power of
appropriate
Government
to make rules.

38. (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner of giving special training and the time-limit thereof, under first proviso to section 4;

(b) the area or limits for establishment of a neighbourhood school, under section 6;

(c) the manner of maintenance of records of children up to the age of fourteen years, under clause (d) of section 9;

(d) the manner and extent of reimbursement of expenditure, under sub-section (2) of section 12;

(e) any other document for determining the age of child under sub-section (1) of section 14;

(f) the extended period for admission and the manner of completing study if admitted after the extended period, under section 15;

(g) the authority, the form and manner of making application for certificate of recognition, under sub-section (1) of section 18;

(h) the form, the period, the manner and the conditions for issuing certificate of recognition, under sub-section (2) of section 18;

(i) the manner of giving opportunity of hearing under second proviso to sub-section (3) of section 18;

(j) the other functions to be performed by School Management Committee under clause (d) of sub-section (2) of section 21;

(k) the manner of preparing School Development Plan under sub-section (1) of section 22;

(l) the salary and allowances payable to, and the terms and conditions of service of, teacher, under sub-section (3) of section 23;

(m) the duties to be performed by the teacher under clause (f) of sub-section (1) of section 24;

(n) the manner of redressing grievances of teachers under sub-section (3) of section 24;

(o) the form and manner of awarding certificate for completion of elementary education under sub-section (2) of section 30;

(p) the authority, the manner of its constitution and the terms and conditions therefor, under sub-section (3) of section 31;

(q) the allowances and other terms and conditions of appointment of Members of the National Advisory Council under sub-section (3) of section 33;

(r) the allowances and other terms and conditions of appointment of Members of the State Advisory Council under sub-section (3) of section 34.

(3) Every rule made under this Act and every notification issued under sections 20 and 23 by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(4) Every rule or notification made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislatures.

THE SCHEDULE

(See sections 19 and 25)

NORMS AND STANDARDS FOR A SCHOOL

Sl. No.	Item	Norms and Standards	
1.	Number of teachers:		
	(a) For first class to fifth class	Admitted children	Number of teachers
		Up to Sixty	Two
		Between sixty-one to ninety	Three
		Between Ninety-one to one hundred and twenty	Four
		Between One hundred and twenty-one to two hundred	Five
		Above One hundred and fifty children	Five plus one Head-teacher
		Above Two hundred children	Pupil-Teacher Ratio (excluding Head-teacher) shall not exceed forty.
	(b) For sixth class to eighth class	<p>(1) At least one teacher per class so that there shall be at least one teacher each for—</p> <p>(i) Science and Mathematics;</p> <p>(ii) Social Studies;</p> <p>(iii) Languages.</p> <p>(2) At least one teacher for every thirty-five children.</p> <p>(3) Where admission of children is above one hundred—</p> <p>(i) a full time head-teacher;</p> <p>(ii) part time instructors for—</p> <p>(A) Art Education;</p> <p>(B) Health and Physical Education;</p> <p>(C) Work Education.</p>	
2.	Building	<p>All-weather building consisting of—</p> <p>(i) at least one class-room for every teacher and an office-cum-store-cum-Head teacher's room;</p> <p>(ii) barrier-free access;</p> <p>(iii) separate toilets for boys and girls;</p> <p>(iv) safe and adequate drinking water facility to all children;</p> <p>(v) a kitchen where mid-day meal is cooked in the school;</p> <p>(vi) Playground;</p>	

Sl. No.	Item	Norms and Standards
		(vii) arrangements for securing the school building by boundary wall or fencing.
3.	Minimum number of working days/instructional hours in an academic year	(i) two hundred working days for first class to fifth class; (ii) two hundred and twenty working days for sixth class to eighth class; (iii) eight hundred instructional hours per academic year for first class to fifth class; (iv) one thousand instructional hours per academic year for sixth class to eighth class.
4.	Minimum number of working hours per week for the teacher	forty-five teaching including preparation hours.
5.	Teaching learning equipment	Shall be provided to each class as required.
6.	Library	There shall be a library in each school providing newspaper, magazines and books on all subjects, including story-books.
7.	Play material, games and sports equipment	Shall be provided to each class as required.

Sd/-

T. K. VISWANATHAN,
Secretary to the Government of India.

By order and in the name of the Governor of Gujarat,

H. D. VYAS,
Secretary to Government.

Government Central Press, Gandhinagar.



सत्यमेव जयते

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EXTRAORDINARY

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Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART - VI

Acts of Parliament and Ordinances promulgated by the President

GOVERNMENT OF GUJARAT

LEGISLATIVE & PARLIAMENTARY AFFAIRS DEPARTMENT

Sachivalaya, Gandhinagar, 18th June, 2010.

No.RPB/2-10/Ord.-02-10/E- The following Ordinance promulgated by the President and published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 15th May, 2010 is republished for general information: -

GOVERNMENT OF INDIA

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 15th May, 2010/ Vaisakha 25, 1932 (Saka)

THE INDIAN MEDICAL COUNCIL (AMENDMENT) ORDINANCE, 2010

No. 2 OF 2010

Promulgated by the President in the Sixty-first Year of the Republic of India.

An Ordinance further to amend the Indian Medical Council Act, 1956:

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for her to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Indian Medical Council (Amendment) Ordinance, 2010.

Short title and commencement.

(2) It shall come into force at once.

Insertion of new sections 3A, 3B and 3C.

Power of Central Government to supersede the Council and to constitute a Board of Governors.

2. After section 3 of the Indian Medical Council Act, 1956, the 102 of 1956. following sections shall be inserted, namely:-

3A. (1) On and from the date of commencement of the Indian Medical Council (Amendment) Ordinance, 2010, the Council shall stand superseded and the President, Vice-President and other members of the Council shall vacate their offices and shall have no claim for any compensation, whatsoever.

(2) The Council shall be reconstituted in accordance with the provisions of section 3 within a period of one year from the date of supersession of the Council under sub-section (1).

(3) Upon the supersession of the Council under sub-section (1) and until a new Council is constituted in accordance with section 3, the Board of Governors constituted under sub-section (4) shall exercise the powers and perform the functions of the Council under this Act.

(4) The Central Government shall, by notification in the Official Gazette, constitute the Board of Governors which shall consist of not more than seven persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex-officio*, to be appointed by the Central Government, one of whom shall be named by the Central Government as the Chairperson of the Board of Governors.

(5) The Chairperson and the other members, other than the members, *ex-officio*, shall be entitled to such sitting fee and travelling and other allowances as may be determined by the Central Government.

(6) The Board of Governors shall meet at such time and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as is applicable to the Council

(7) Two-third of the members of the Board of Governors shall constitute the quorum for its meetings.

(8) No act or proceedings of the Board of Governors shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Board of Governors; or

(b) any irregularity in the procedure, of the Board of Governors not affecting the merits of the case.

(9) A member having any financial or other interest in any matter coming before the Board of Governors for decision, shall disclose his interest in the matter before he may, if allowed by the Board of Governors, participate in such proceedings.

(10) The Chairperson and other members of the Board of Governors shall hold office during the pleasure of the Central Government.

3B. During the period when the Council stands superseded,-

(a) the provisions of this Act shall be construed as if, for the word "Council", the words "Board of Governors" were substituted;

Certain modifications of the Act.

(b) the Board of Governors shall-

(i) exercise the powers and discharge the functions of the Council under this Act and for this purpose, the provisions of this Act shall have effect subject to the modification that references therein to the Council shall be construed as references to the Board of Governors;

(ii) grant independently permission for establishment of new medical colleges or opening a new or higher course of study or training or increase in admission capacity in any course of study or training referred to in section 10A or giving the person or college concerned a reasonable opportunity of being heard as provided under section 10A without prior permission of the Central Government under that section, including exercise of the power to finally approve or disapprove the same: and

(iii) dispose of the matters pending with the Central Government under section 10A upon receipt of the same from it

3C. (1) Without prejudice to the provisions of this Act, the Board of Governors or the Council after its reconstitution shall, in exercise of its powers and in the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Power of Central Government to give directions.

Provided that the Board of Governors or the Council after its reconstitution shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is a matter of policy or not shall be final.

Sd/-

PRATIBHA DEVISINGH PATIL
President

V. K. Bhasin

Secretary to the Government of India

By order and in the name of the Governor of Gujarat,

H.D.VYAS,
Secretary to Government.